**Members:**

Jennifer Nash, Chair
Susan Mandiberg, Vice Chair
Peter Buckley
Stephanie Engelsman
Robert Harris
Alton Harvey, Jr.
Philippe Knab
Tom Lininger
Paul Lipscomb

Oregon Public Defense Commission

**Nonvoting Members:**

Rep. Paul Evans
Haley Olson
Caitlin Plummer
Sen. Floyd Prozanski

**Interim Executive Director:**

Kenneth Sanchagrin

***Oregon Public Defense Commission***
*Meeting will occur in-person with a virtual option via Zoom.**
*Friday, December 5, 2025*
*Pre-Meeting Commission Work Session 9:00 AM – 10:00 AM PST*
*Commission Meeting 10:00 AM – approx. 2:00 PM PST*
*The Benson Hotel: 309 SW Broadway, Portland, OR 97205*

***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.*

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# AGENDA

| Approx. Time | Item/Leads |
|---|---|
| 9:00-10:00 | **OPDC Pre-Meeting Commission Work Session**<br>**Topics:**<br>• Overview of the Office of Economic Analysis (OEA) Forecast<br>  ○ Lead: Ken Sanchagrin (25 min)<br>  ○ Optional Reference Materials: October 2025 Public Defense Caseload Forecast<br>• Continued Discussion on Parent-Child Representation Program (PCRP) Standards and Dependency Standards & Introduction to Psychiatric Security Review Board Attorney Performance (PSRB) Standards and Civil Commitment Standards<br>  ○ Lead: Steve Arntt (25 Min)<br>• Accounts Payable Dashboard<br>  ○ Lead: Ken Sanchagrin (10 Min)<br>*All members of the public are invited to join the Oregon Public Defense Commission for an ongoing Commission work session series, set to take place prior to convening official Commission meetings.* |

| | |
|---|---|
| | *These work sessions will provide Commissioners, new and experienced, with a foundational understanding of important issues and policy areas, including potential challenges, opportunities, and complexities.*<br><br>*Commission work sessions may or may not lead to future decision-making, but they will always be valuable and educational for all Commissioners and public who attend. Work sessions will be available to join virtually via the public Zoom link listed below the agenda.*<br><br>***Note:** Agenda items not addressed or completed during this work session will be carried over to the next scheduled workgroup meeting, unless otherwise directed by the Chair.* |

| Approx. Time | Item | Lead(s) |
|---|---|---|
| 10:00-10:05 | Welcome – Call to Order | Chair Nash |
| 10:05-10:20 | Public Comment | |
| 10:20-10:30 | **Update:** Unrepresented Persons in Oregon Courts: Attorney Shortage | Ken Sanchagrin<br>Maddy Ferrando |
| 10:30-10:40 | ****Break**** | |
| 10:40-10:55 | **Update:** Director's Update<br>• Financial Case Management System (FCMS)<br>• OPDC 12-Month Plan | Ken Sanchagrin |
| 10:55-11:10 | **Update:** Budget | Ralph Amador |
| 11:10-11:15 | **Action Item:** Election of Chair and Vice Chair | Chair Nash |
| 11:15-11:20 | **Possible Action Item:** Commission Key Performance Measures (KPMs) | Vice Chair Mandiberg |
| 11:20-11:25 | **Action Item:**<br>• Parent-Child Representation Program (PCRP) Standards<br>• Dependency Attorney Standards | Steve Arntt |
| 11:25-11:45 | **Update/Action Item:** OPDC New Key Performance Measures (KPMs) | Ken Sanchagrin |
| 11:45-12:00 | **Action Item:**<br>• Comprehensive Public Defense Report<br>• Public Defense Status Report | Lisa Taylor |
| 12:00-12:10 | ****Break**** | |
| 12:10-2:00 | Public Meetings Law Training and Q&A Session for Commissioners | Sean Brady and Dan Gilbert (DOJ) |
| 2:00pm (Approximately) | ****Adjourn**** | |

**To join the Zoom meeting, click this link: https://zoom.us/j/96906849116. 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. Verbal and written comments must be directly related to agenda items. Please click here to review the guidelines for providing public comment on our website.*

*Next meeting:* ***January 21, 2026, 9am – 2pm via Zoom.*** *Meeting dates, times, locations, and agenda items are subject to change by the Commission; future meetings dates are posted at*: *https://www.oregon.gov/opdc/commission/Pages/meetings.aspx.*

DAS
DEPARTMENT OF ADMINISTRATIVE SERVICES

# Oregon Public Defense Caseload Forecast

October 2025

**Department of Administrative Services**
Betsy Imholt
DAS Director
Chief Operating Officer

**Office of Economic Analysis**
Carl Riccadonna, Chief Economist
Michael Kennedy, Senior Economist
Mitchell D'Sa, Senior Economist
Kanhaiya Vaidya, Senior Demographer

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## Background

Oregon Revised Statute 151.235 authorizes the Department of Administrative Services to produce the public defense forecast. The Office of Economic Analysis (OEA) produces the semi-annual Oregon Public Defense Caseload Forecast which provides projections of populations eligible for public counsel. The forecast will be published April 15th and October 15th of each year. State agencies, in particular the Office of Public Defense Commission (OPDC) and the Oregon Criminal Justice Commission (CJC), are mandated to use the forecast for budgeting and policy development where public defense is concerned.

Currently there is no official advisory committee for the forecast, however our office has been working collaboratively with partner agencies in gathering and understanding caseload data, and in developing the forecast. In general, advice from the ad-hoc group forms the basis for forecast assumptions regarding policy and practices in the public defense system and the impact of law and policy changes on public defense assignment and caseloads. Group members bring to the forecast process decades of diverse experience in the criminal justice system. They meet prior to each forecast release to discuss forecast-related issues such as trends in crime, potential impact of new laws, changes in criminal justice practices, and to advise technical aspects of the forecast process. Our office is working on creating an official advisory committee.

The general forecast process, the publication of the forecast, and the technical aspects of developing the forecast, are managed by the Office of Economic Analysis with substantial assistance from both the Oregon Public Defense Commission and the Oregon Judicial Department.

For more information or questions regarding the forecast please use the following contact information:
Website: http://www.oregon.gov/DAS/OEA/Public-defense-caseload-forecast.aspx
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Department of Administrative Services
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Salem, OR 97301-3966

## Forecast Summary

This October 2025 forecast marks the fourth edition of the Office of Economic Analysis' public defense forecast. It is also the second forecast employing the demographic style flow model enabling caseload output. The methodology and data compilation algorithm are still a work in progress; however, one should consider the forecast considerably more mature than prior editions.

While this forecast does not have a formal advisory committee as do the Corrections and Juvenile Corrections forecasts, the office did meet with members of the Office of Public Defense Services and the respective executive and legislative budget offices to discuss the forecast and the systems affecting it. Chief among the topics of conversation were:

- The passage of House Bill 4002 (2024) and the recriminalization of Possession of Controlled Substances. This significant law change has the capacity to affect the forecast in several ways.
    - First, impact estimates for this bill have been incorporated into the respective case-type forecasts (Felony, Misdemeanor, and Probation Violation). To the degree that those estimates are truly forecasts subject to error, they introduce additional error into the model. The original impact estimates are still holding up based on data collected to date.
    - Second, it is highly possible that increased detection of PCS will also increase ancillary detection, arrest and charging activity that could increase these eligibility caseloads above what is reflected in the current report. Recent data indicate that these ancillary offenses (e.g., trespass, weapon possession, and failure to appear) are not spiking inordinately.
- Criminal case filing is currently being impacted by the availability of public defense attorneys, according to advisors on the Corrections Population Forecast Advisory Committee. This is particularly true of lessor offenses. This has created a disconnect between broad measures of criminal offending and criminal justice system metric, such as arrests, cases filed, and intakes to incarceration. To the extent that the state addresses the public defense issue over the ensuing few years, caseloads could be affected in a way not depicted herein.
- As noted in the Methodology section, all the case type forecasts are modeled on some population demographic in the long run. Currently, the outlook for population growth produced by the Office of Economic Analysis is very muted. Fertility rates in Oregon have slowed dramatically in recent years. This has even resulted in projected declines in the juvenile demographics in the outer years. To the extent that in-migration and/or fertility rates deviate from the current forecast, the caseload projections in this report will be subject to associated error.

**Newly Eligible Forecast Overview**

As noted above, the forecast characterizes persons eligible for court-appointed counsel. It does not delve into whether the individual is appointed an attorney or not. As such, the complexity and nature of the public defense contracting and management system[1] should not affect the forecast. However, the availability of attorneys can impact case filings (i.e., a district attorney's office may choose not to file a

Table 1: Public Defense Forecast Detail

*New Cases Eligible for Court-Appointed Counsel*

*Sept 2025 Forecast*

| | | Biennium | | | |
|---|---|---|---|---|---|
| | | **2023-25** | **2025-27** | **2027-29** | **2029-31** |
| Adult | | | | | |
| | Felony | 43,643 | 45,308 | 46,637 | 47,503 |
| | Misdemeanors | 82,634 | 95,597 | 100,319 | 100,508 |
| | Probation Violation | 25,880 | 27,906 | 28,576 | 28,598 |
| | Treatment Court | 1,605 | 1,850 | 1,902 | 1,927 |
| | Appellate | 3,160 | 3,516 | 3,552 | 3,547 |
| | Post-Conviction Relief | 566 | 572 | 580 | 579 |
| | Habeas Corpus | 271 | 370 | 375 | 375 |
| | Civil Commitment | 4,775 | 5,453 | 5,477 | 5,469 |
| **Total Adults** | | **162,534** | **180,571** | **187,418** | **188,506** |
| Juvenile | | | | | |
| | Dependency* | 17,471 | 18,890 | 18,482 | 18,133 |
| | Delinquency** | 5,860 | 6,140 | 6,076 | 6,021 |
| | Probation Violation | 4,137 | 4,118 | 4,197 | 4,127 |
| | Treatment Court | 306 | 353 | 354 | 348 |
| | Appellate | 609 | 629 | 617 | 605 |
| **Total Juveniles** | | **28,383** | **30,130** | **29,725** | **29,233** |
| **Total New Eligibles** | | **190,917** | **210,701** | **217,142** | **217,739** |

** Includes Parents and Guardians.*

*** includes Measure 11, Murder, and All Other*

*Source: Oregon Judicial Department, Oregon Office of Economic Analysis*

[1] OPDC delivers attorney services through various models, including contracted and state-employed (hourly) attorneys.

case if the likelihood of dismissal is high), which would alter the number eligibles. This produces a delicate hydraulic that must be weighed as OPDC works to resolve the unrepresented caseload.

Table 1 presents the public defense forecast and historical detail, by case type, through the 2029-31 biennium. The adult eligible forecast increases significantly through the 2027-29 biennium, mostly because of House Bill 4002 and the recriminalization of possession of controlled substances. This can be seen in the Misdemeanor and Probation Violation case categories. The juvenile forecast takes a slight step up in the current biennium and exhibits a slight decreasing trend thereafter due to predicted declines in the “0-17” population.

This October 2025 forecast is not directly tied to a budget build step. However, it is an important touchstone in understanding the trends and patterns leading up to the next forecast (April 2026), which will tie to the Agency Request Budget development process. This interim between enactment of the 2025-27 Legislatively Adopted Budget and the April 2026 forecast is also an opportunity to continue to modify the data compilation process to better replicate real-world variables represented in the forecast.

Table 2: Eligibility Biennial Summary

## Public Defense Forecast - New Eligibles Summary

Difference from previous forecast

| | | April 2025 Fcst | Sept 2025 Fcst | Change | Percent |
|---|---|---|---|---|---|
| Adult | Felony | 46,340 | 45,308 | -1,032 | -2.2% |
| | Jessica's Law | 222 | 178 | -44 | -19.8% |
| | Murder | 285 | 232 | -53 | -18.6% |
| | Measure 11 | 3,948 | 3,963 | 15 | 0.4% |
| | Major Felony | 7,967 | 8,192 | 225 | 2.8% |
| | Minor Felony | 33,919 | 32,744 | -1,175 | -3.5% |
| | Misdemeanors | 93,243 | 95,597 | 2,354 | 2.5% |
| | Probation Violation | 27,343 | 27,906 | 563 | 2.1% |
| | Treatment Court | 1,866 | 1,850 | -16 | -0.8% |
| | Appellate | 3,565 | 3,516 | -49 | -1.4% |
| | Post-Conviction Relief | 672 | 572 | -100 | -14.9% |
| | Habeas Corpus | 210 | 370 | 160 | 76.0% |
| | Civil Commitment | 5,496 | 5,453 | -43 | -0.8% |
| | **TOTAL** | **178,735** | **180,571** | **1,836** | **1.0%** |

| | | April 2025 Fcst | Sept 2025 Fcst | Change | Percent |
|---|---|---|---|---|---|
| Juvenile | Dependency* | 17,726 | 18,890 | 1,163 | 6.6% |
| | Delinquency** | 6,718 | 6,140 | -578 | -8.6% |
| | Probation Violation | 4,253 | 4,118 | -135 | -3.2% |
| | Treatment Court | 338 | 353 | 15 | 4.4% |
| | Appellate | 683 | 629 | -54 | -7.9% |
| | **TOTAL** | **29,718** | **30,130** | **411** | **1.4%** |

| | | | | |
|---|---|---|---|---|
| **Total New Eligible Cases** | **208,453** | **210,701** | **372** | **1.1%** |

* Includes Parents and Guardians. ** includes Measure 11, Murder, and All Other

Table 2 presents the latest eligibility forecast compared to the prior forecast. As discussed in the "Components of Change" section at the end of the document, departures from forecast for the recently added months explain most of the near-term change in the forecast (i.e., the 2025-27 biennium). Higher-than-expected eligibility rates for adult misdemeanors, adult probation violations and juvenile dependency contribute to increases in the forecast for these cohorts in the current biennium. Likewise, weaker-than-anticipated rates for adult felony and juvenile delinquency explain those forecast revisions. It should be noted that the percentage changes amount to just 1.1 percent for the eligible population as a whole.

Special Note: House Bill 2005 (2025) modified the definitions and circumstances surrounding involuntary commitment. In terms of the public defense forecast, the measure has the projected effect of increasing the number of persons eligible for court-appointed counsel in the civil commitment cohort, particularly going into the 2027-29 biennium and beyond. The Office of Economic Analysis will work with staff of the Public Defense Commission to estimate this impact to incorporate it into the April 2026 forecast. This will ensure that the measure's effect is adequately reflected for budgetary purposes for the ensuing developmental cycle.

**Open Caseload Forecast Overview**

As noted below, caseloads are measured on the first of each month. However, to summarize at the fiscal year and biennial level, cases are counted once during the period for each interval measured[2]. Due to more recent information, the imputation of biennial caseloads from monthly values in the caseload model can produce atheoretical results relative to the eligibility counts presented above.

Table 3: Caseload Biennial Summary

## Public Defense Forecast - Caseload Forecast Comparison

Difference from previous forecast

| | | April 2025 Fcst | Sept 2025 Fcst | Change | Percent |
|---|---|---|---|---|---|
| Adult | Felony | 60,810 | 59,555 | -1,255 | -2.1% |
| | Jessica's Law | 111 | 113 | 2 | 1.4% |
| | Murder | 589 | 595 | 5 | 0.9% |
| | Measure 11 | 6,578 | 6,432 | -145 | -2.2% |
| | Major Felony | 11,732 | 11,465 | -267 | -2.3% |
| | Minor Felony | 41,800 | 40,950 | -850 | -2.0% |
| | Misdemeanors | 116,686 | 120,710 | 4,024 | 3.4% |
| | Probation Violation | 34,182 | 33,824 | -358 | -1.0% |
| | Treatment Court | 3,105 | 2,820 | -285 | -9.2% |
| | Appellate | 6,912 | 6,059 | -853 | -12.3% |
| | Post-Conviction Relief | 1,138 | 1,292 | 154 | 13.5% |
| | Habeas Corpus | 202 | 388 | 186 | 92.1% |
| | Civil Commitment | 5,284 | 5,543 | 259 | 4.9% |
| | **TOTAL** | **228,319** | **230,191** | **1,872** | **0.8%** |

| | | April 2025 | September 2025 | Change | Percent |
|---|---|---|---|---|---|
| Juvenile | Dependency* | 28,399 | 30,020 | 1,621 | 5.7% |
| | Delinquency** | 9,114 | 7,361 | -1,753 | -19.2% |
| | Probation Violation | 5,123 | 4,499 | -624 | -12.2% |
| | Treatment Court | 506 | 538 | 32 | 6.3% |
| | Appellate | 1,147 | 936 | -211 | -18.4% |
| | **TOTAL** | **44,289** | **43,354** | **-935** | **-2.1%** |

| | | | | |
|---|---|---|---|---|
| **Total Open Caseloads** | **272,608** | **273,545** | **937** | **0.3%** |

After discussion with members of the informal review committee, Tables 2 and 3 provide breakouts of the Adult Felony category into its subcomponents (e.g., Jessica's Law, Murder, etc.). Similar to the

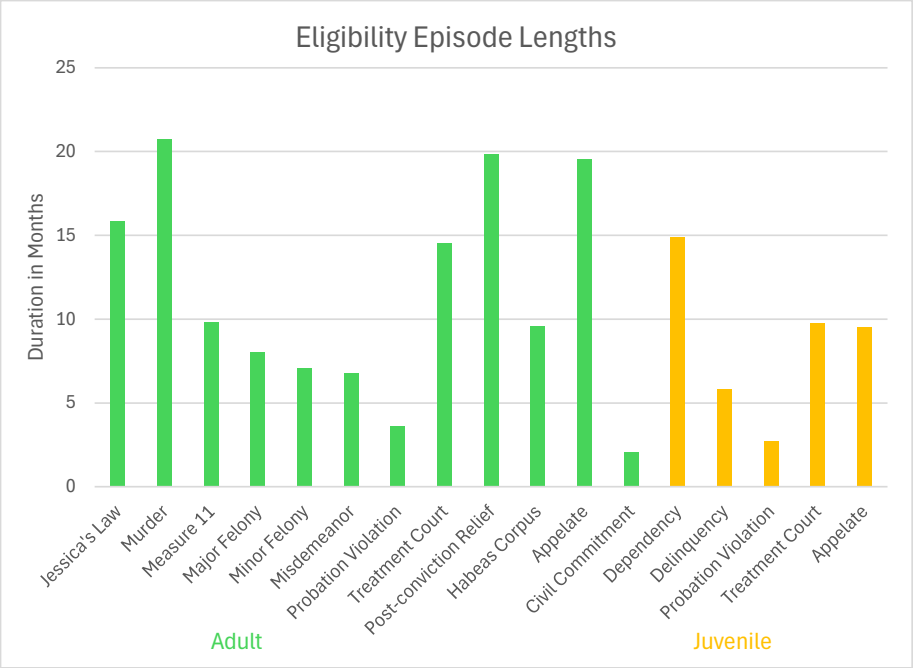
[2] The forecast does is not generated at the case level. To produce fiscal year and biennial summaries, averages of the monthly caseload values are taken. Historical ratios are measured relative to actual caseload metrics, which are then used to estimate the interval caseload values.

eligible counts above, misdemeanors and dependency exhibit increases relative to the prior forecast while adult felony and juvenile delinquency have declined. Again, the changes are small in percentage terms.

**Episode Lengths Overview**

The chart to the right presents the average duration of eligibility episodes by case type. The most important caveat for criminal cases is that these episodes include both pled cases and those that go to trial. Thus, the variance can be quite large.

Chart 1: Episode Lengths




The longest eligibility episodes are associated with Jessica's Lay/Murder, Post-conviction Relief, and Appeals. Treatment Court and Dependency are also lengthy at just under 15 months on average. The shortest durations are observed for Probation Violations and Civil Commitment. Episode duration is an important input in the budget process and an essential output from the caseload model.

## Forecast Methodology

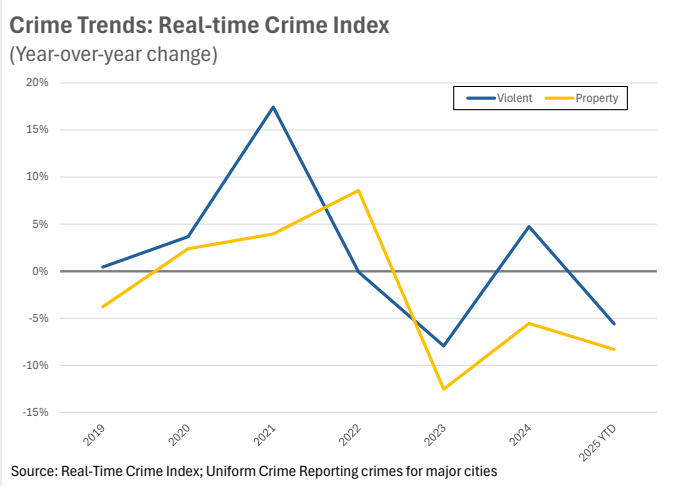
### Data Sources

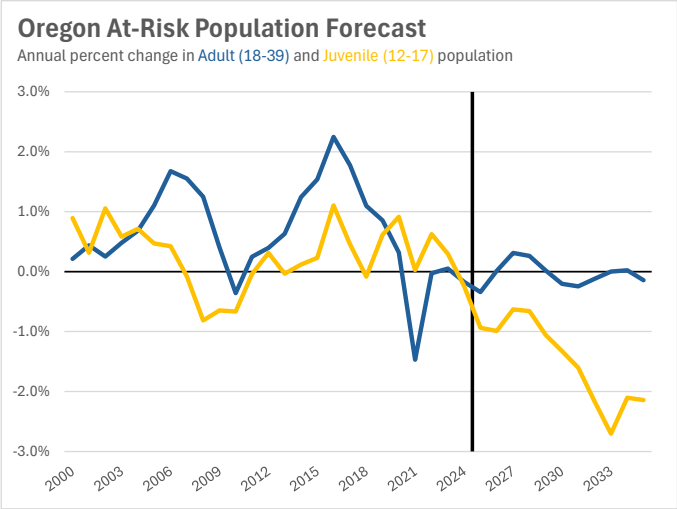
The primary input to the forecast consists of data from the Odyssey data system administered by the Oregon Judicial Department. Data characterize instances of eligibility for public counsel regardless of whether an attorney is appointed or not. Beginning and end dates of the eligibility episode support the caseload model.

Other inputs to the forecast process include crime data compiled by the Real-Time Crime Index, but originally collected by police departments. These data reflect crimes reported to police for a subset of crimes including murder, robbery and theft.

Finally, and of utmost importance, is the Office of Economic Analysis' demographic forecast. Different demographic breakdowns are utilized depending on the specific eligibility population being modeled.

Chart 2: Descriptors




### Methodology

The methodology for producing the public defense forecast is significantly changed for this April 2025 edition. In discussions with stakeholders, it was determined that additional metrics were needed to inform the budget process. The Office of Economic Analysis and the Oregon Judicial Department augmented the compilation of the data such that caseload metrics could be produced. The Office of Economic Analysis is well versed in caseload forecasting as the Corrections and Youth Corrections models are caseload models. These models are the basis for the methodology outlined below.

The nature of these caseload models is a demographic-style flow model with the specification:

$$\text{Population}_T = \text{Population}_{T-1} + \text{Admissions}_{T-1} - \text{Releases}_{T-1}$$

Where

T is the first of the month in question

T – 1 is the first of the previous month

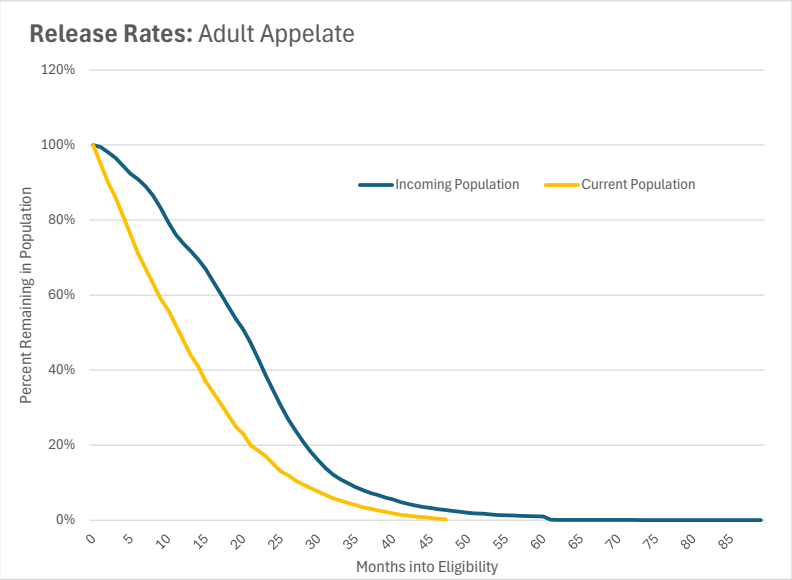
The model can be viewed in three components: (1) the current population and its release characteristics, (2) a projection of incoming eligibles, and (3) the release characteristics of future incoming cohorts.

The attendant chart presents the release profiles of both the current and future cohorts taken from the adult appellate cohort. Because individuals are at varying intervals within their eligibility, the current cohort's release profile is steeper than that of the incoming cohort.

The chart to the right presents the intake, or "becoming eligible", forecast. Forecasts for each case type are constructed based on historical patterns and trends and incorporate demographic forecasts to model the long-term profiles for all cohorts.

The three components are compiled to produce the caseload forecast. It should be noted that the release characteristics of the existing population drive the profile of the near-term forecast, while the intake forecast and future release characteristics drive the profile of the long run forecast.

Chart 3: Model Mechanics



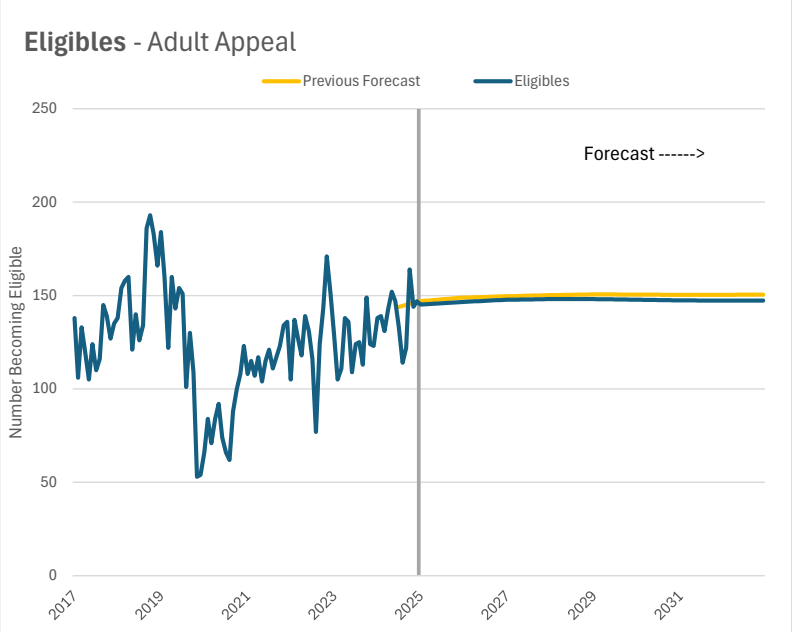
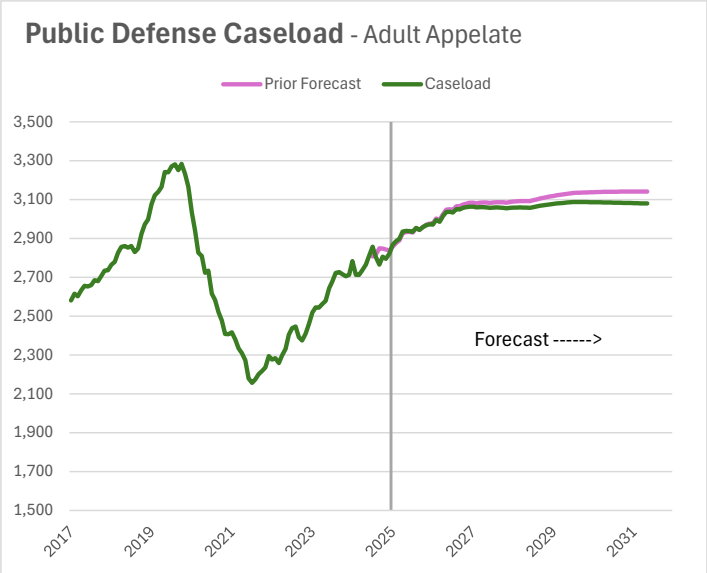



Chart 4 presents the caseload history and forecast for the Adult Appellate cohort. Note that the forecast represents individuals eligible on the first of each month. The hydraulics of caseloads models such as this one are that a steady state intake level will result in a steady state caseload level at some point given that lengths of eligibility remain the same.

As noted above, one additional metric emanating from caseload mechanics is the length of eligibility, which is a necessary component to calculate a release profile.

Chart 4: Caseload Output

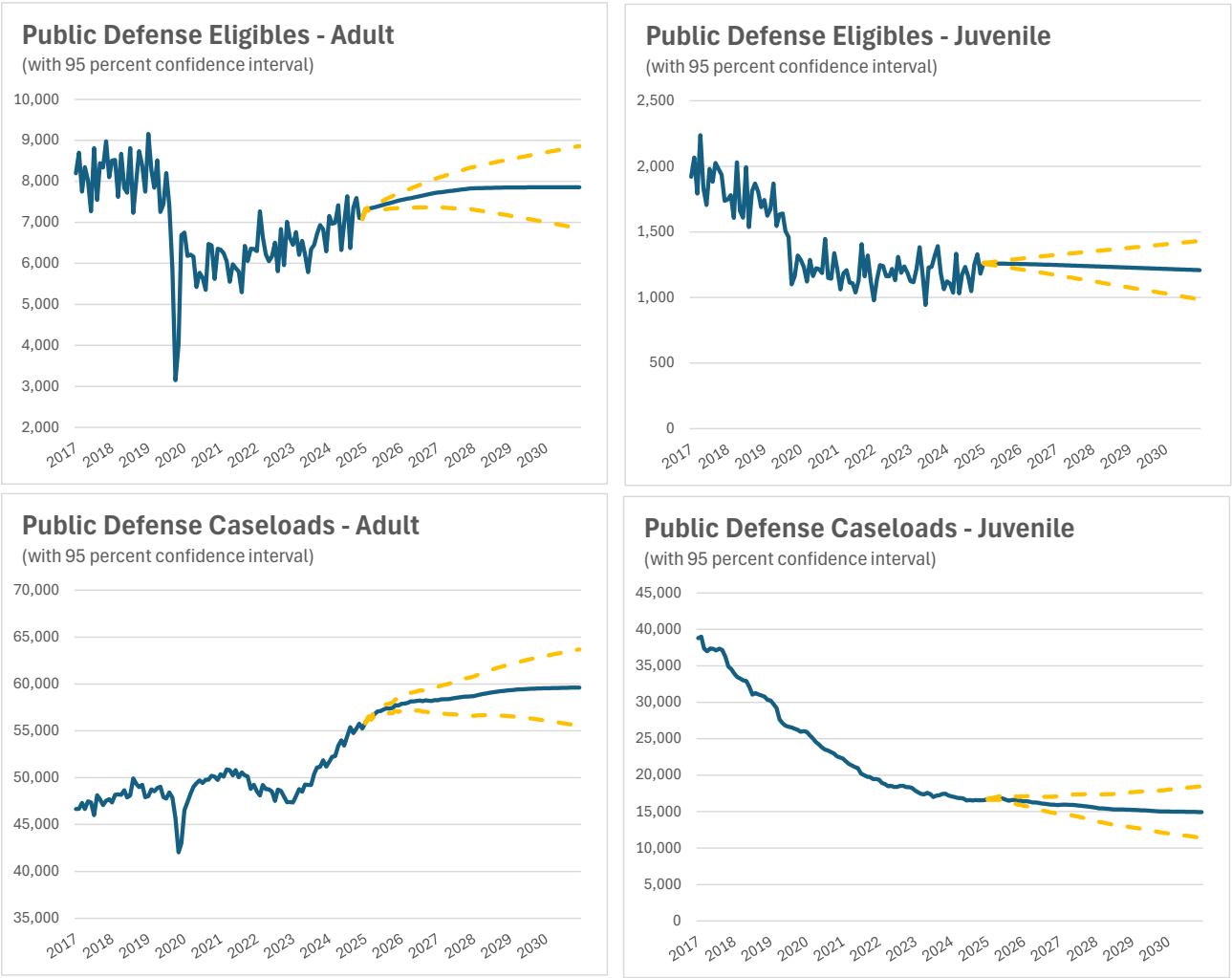


## Margin of Error

ORS 151.235 Section 3 (b) directs the Office to identify the forecast's margin of error for the adult and juvenile populations separately. In due time, a suitable number of prior forecast iterations will allow for a history of errors from which to calculate a predicted confidence interval for future forecasts. With only a handful of prior forecast observations, a margin of error is not available via these methods. Therefore, another method is necessary.

Looking at the historical variation in the eligible population provides an indication for how the actual population might deviate from the forecast. The period from January 2022 through the latest actual in June 2025 is examined and the variance around the trend is calculated. Two standard deviations should approximate a ninety-five percent confidence interval for the forecast. The charts below exhibit the calculated margins for error for the adult and juvenile population forecasts.

Chart 5: Margin of Error



## Components of Change

ORS 151.235 Section 3 (c) directs the Office to "attribute growth or decline in the forecast, relative to previously issued forecasts, to specific policies or to specific components of the baseline underlying the forecast." The changes in the forecast can be delineated into two main categories:

- The inclusion of recent actuals into the model, and
- Updates to descriptors such as criminal activity and population growth.

Inclusion of recent actuals:

> The April 2025 forecast was based on data through December 2024. For the latest forecast, January through June data were added. In the near-term of every subpopulation forecast, the incorporation of new actuals explains nearly change relative to the prior forecast.

Updates to descriptors:

> Demographic variables drive the long-run growth path of every subpopulation model. Changes to these forecasts explain virtually all the revision in the outer years.

## Appendix

### Forecast Values

Attachments are available the breakout the public defense forecast in numerous ways:

- Eligibility Detail: This attachment provides a summary of the thirteen cohorts by fiscal year, as well as county-level detail for each cohort.
- Caseload Detail: This attachment provides a summary of the thirteen cohorts by fiscal year, as well as county-level detail for each cohort.
- Monthly Detail: This attachment provides both eligibility and caseload monthly counts for each cohort.
- Episode Lengths: This attachment provides the average episode length for each cohort.

Note: it has come to our attention that Jessica's Law cases may not be getting coded appropriately (e.g., instead being coded as "Murder") in Multnomah County. The Judicial Department is working with Multnomah County on this issue. While OEA understands the issue, it cannot arbitrarily depart from the standing methodology for parsing the statewide forecast down to the county level until the issue is rectified in the data.

https://www.oregon.gov/das/oea/Pages/Public-defense-caseload-forecast.aspx

# STATEWIDE



In-custody individuals **decreased by 14.9%** and out-of-custody numbers **decreased by 13.9%** during October.

| | 7/3/23 | 9/30/25 | 10/31/25 | Change |
|---|---|---|---|---|
| **In-Custody** | 384 | 207 | 176 | -31 |
| **Out-of-Custody Pretrial** | 2,294 | 2,830 | 2,437 | -393 |

Statewide, there are 2,952 unrepresented individuals, including in and out of custody, post-disposition, and non-criminal cases. This is the lowest number since the end of May 2024.

Since November 2024, the number of out-of-custody pretrial individuals has decreased by 20.6%.

As shown in Figure 2, a significant drop in out-of-custody pretrial unrepresented persons occurred at the beginning of October, with the start of the 2025-27 OPDC contracts.

In addition to the standard six county reports below, other "non-crisis" counties saw significant improvements in their unrepresented numbers with the start of the new contracts:

- Klamath County, which has averaged around 60 out-of-custody pretrial unrepresented individuals, has dropped to 17.
- Union/Wallowa Counties, which share a judicial district, have been steadily building an out-of-custody pretrial list and were sitting at 55 on September 30, 2025. They are now down to 4.

These counties represent rural, chronically underserved jurisdictions. OPDC was able to increase capacity in both situations, drastically reducing the unrepresented populations and preventing these jurisdictions from developing into crises.

OPDC assignment coordinators identified counsel for 634 cases in October, 157 of which were Betschart cases. Betschart assignments are broken down below.

| | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Contractors | 589 | 649 | 60 |
| Hourly | 2,381 | 2,482 | 101 |
| OPDC Trial Division | 588 | 605 | 17 |
| Total | 3,542 | 3,716 | 174 |

**Figure 1** shows all non-warrant unrepresented cases and individuals over the past 12 months, broken into case categories. **Figure 2** shows the trend line for both in-custody and out-of-custody pretrial individuals over the past 12 months.

**Figure 1: Unrepresented Cases & Individuals (Excludes Active Warrants)**
*Source: OJD Unrepresented Data*

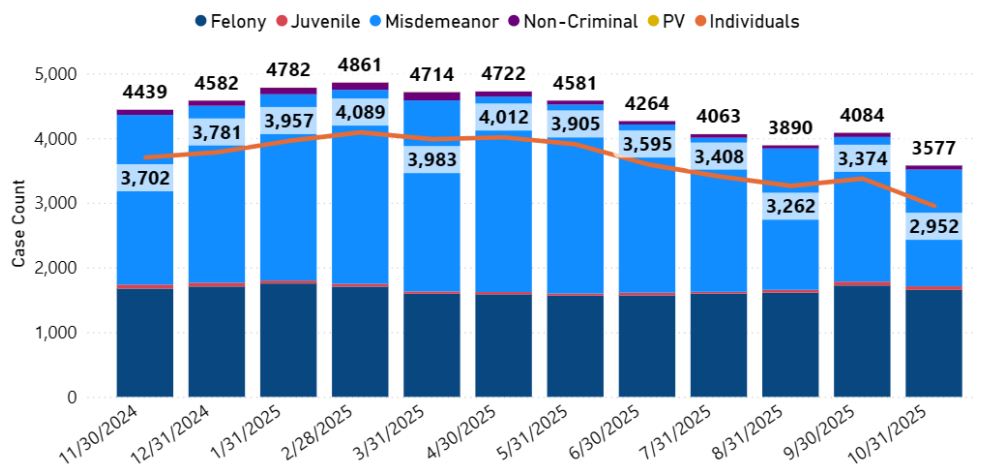
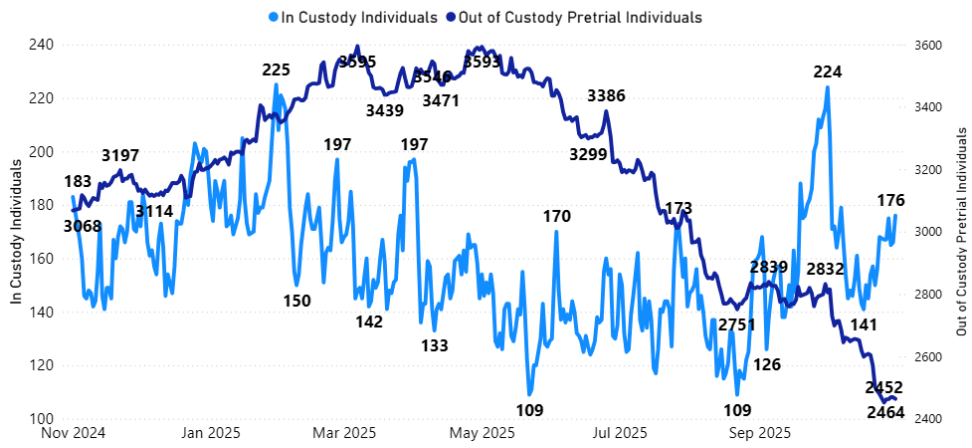



**Figure 2: Pretrial Unrepresented Individuals Trends**
*Source: OJD Unrepresented Data*




### Caseload Capacity

Collectively, criminal contractors and the OPDC trial division were appointed to over 7,000 cases in September 2025. Contractors were at 89.9% MAC utilization, and the Oregon Trial Division was at 105.6% MAC utilization. **Figure 3** summarizes cases and MAC utilization for contractors and the Oregon Trial Division. The same calculations are used to determine MAC utilization for all provider types.

**Figure 3: Case Data and MAC Utilization**

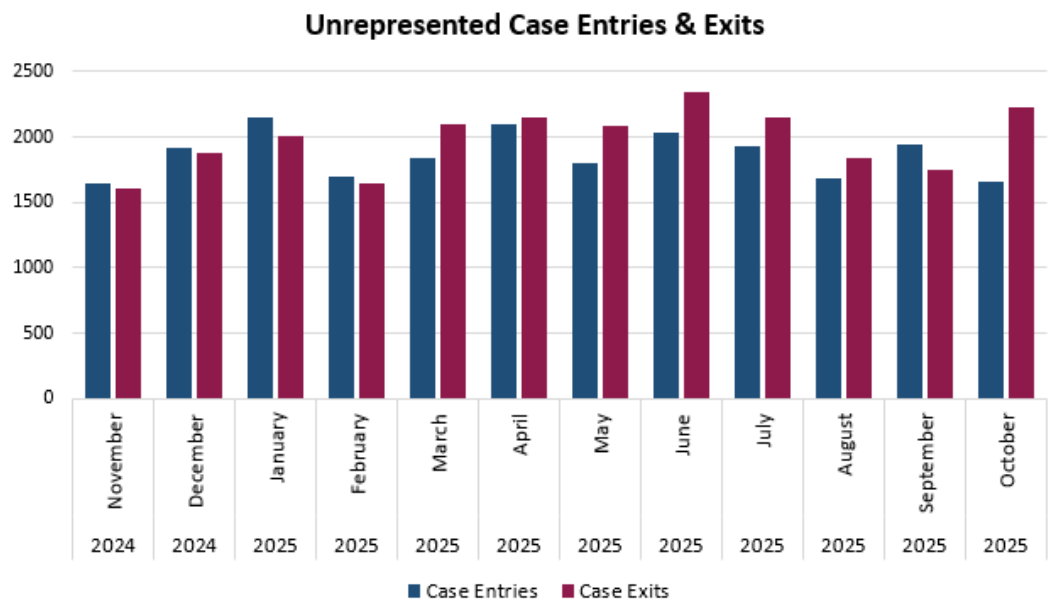
| Provider Type | Total Cases | Monthly Cases | MAC Utilization |
|---|---|---|---|
| **Contractors (Criminal)[1]** | 187,153 | 7,468 | 89.9% |
| Consortia | 82,005 | 3,245 | 91.3% |
| Non-Profits | 75,933 | 3,087 | 87.4% |
| Individuals/Firms | 29,215 | 1,136 | 93.8% |
| **Oregon Trial Divsion[2]** | 3,164 | 173 | 105.6% |
| Northwest | 856 | 16 | 97.3% |
| Central Valley | 1,021 | 62 | 107.8% |
| Southern | 1,298 | 95 | 114.4% |

[1] OPDC Contract Data, July 2023-September 2025

[2] Oregon Trial Division, Excludes Chiefs, December 2023-October 2025

### Entering and Exiting

**Figure 4** shows the number of cases entering and exiting the unrepresented list each month.



# OREGON TRIAL DIVISION

The Oregon Trial Division (OTD) is state-employed attorneys and support staff who provide trial-level defense services throughout the state. The OTD currently has 17 attorneys and 3 Chief Deputy Attorneys who manage the regional offices: the Northwest, Central Valley, and Southern regions. Data about the Trial Division can be found under Caseload Summary on the Trial Division Dashboard.

**MAC Utilization**

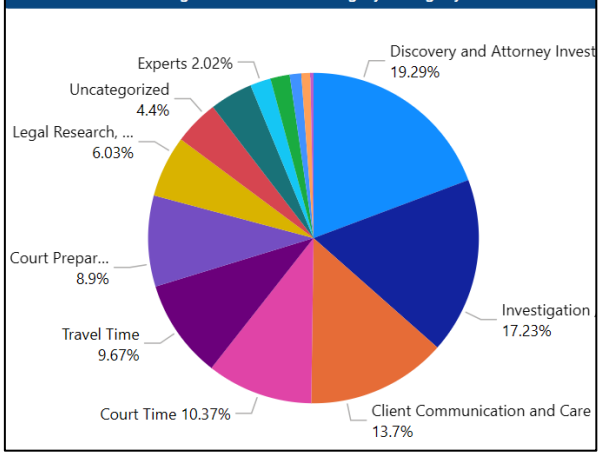
OTD follows the Maximum Attorney Caseload (MAC) standard, calculated in the same manner as contractor MAC. **Figure 1** shows the MAC utilization rates for each OTD office. Since opening in December 2023, OTD has handled 3,164 cases, 1,748 of which are closed.

| Figure 1 | Total Cases | MAC Utilization |
|---|---|---|
| Northwest | 856 | 97.1% |
| Central Valley | 1,021 | 108.4% |
| Southern | 1,296 | 114.1% |
| **Total** | 3,164 | 105.6% |

**Timekeeping**

OTD tracks time across 13 categories. As **Figure 2** shows, the most time-consuming aspects of a case are discovery, investigation, and client communication.

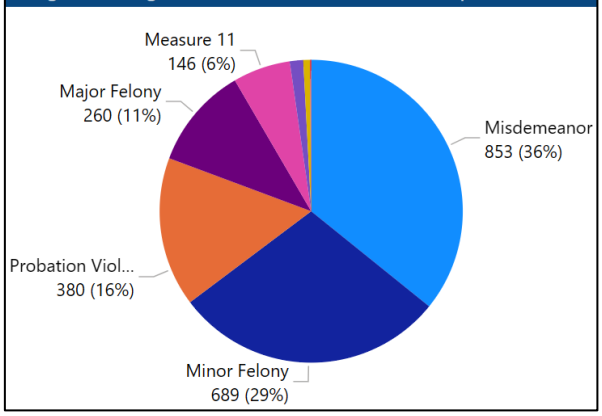
Figure 2: Time Tracking by Category




**Unrepresented Impact**

OTD has removed 2,382 cases from the unrepresented list, including 605 Betschart cases. **Figure 3** illustrates the types of cases removed, and **Figure 4** displays the distribution by county.

Figure 3: Oregon Trial Division Cases from Unrepresented List




**Early Resolution Dockets**

OTD has partnered with district attorneys and courts in Multnomah, Marion, Coos, and Jackson counties to pilot or create early resolution dockets (ERD) for defendants with low-level charges.

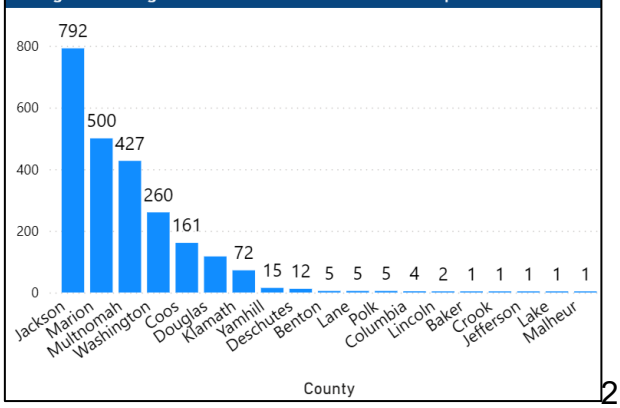
The Coos ERD ran from May-October 2025 and included 127 cases, 49 were resolved, 41 failed to appear, and the remainder were assigned to the new consotia that formed in October 2025.

The Jackson ERD takes cases at arraignment, preventing them from becoming unrepresented. This weekly docket has resolved 147 cases since May 2025.

The Marion ERD began in October 2025 with a target of 20 cases per week. This month is took on 106 cases, removing 58 from the unrepresented list.

The Multonomah ERD was piloted for one day in August and included 41 defendants. 19 were resolved that day, and 8 were resolved in the following weeks. OTD's new Early Resolution Attorney is in discussion with the court and district attorney about how to build on this program.

Figure 4: Oregon Trial Division Cases from Unrepresented List




## Unrepresented Report

September 2025

# COOS

Both in-custody and out-of-custody individuals **decreased significantly** in October.

| | 7/3/23 | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|---|
| **In-Custody** | 4 | 7 | 0 | -7 |
| **Out-of-Custody Pretrial** | 26 | 61 | 1 | -60 |

Coos County contract providers took 69 cases in September; their MAC utilization is 81.9%.

| Provider Type | Aug | Sept | Chg |
|---|---|---|---|
| Non-Profits | 66.6% | 67.9% | 1.3% |
| **Total Cases (7/23-9/25)** | 2,391 | 2,460 | 69 |
| **MAC Utilization** | 100.3% | 81.9% | -18.4% |

The Oregon Trial Division took 13 cases in October.

| OTD Region | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Northwest Region | 2 | 2 | 0 |
| Central Region | 148 | 161 | 13 |
| Southern Region | 4 | 4 | 0 |
| **Total (Cumulative)** | 154 | 167 | 13 |

OPDC assignment coordinators identified counsel for 11 cases in October, one of which was a Betschart case. Betschart assignments are reported below. As the number of in-custody, unrepresented individuals decline, so does the number of Betschart cases.

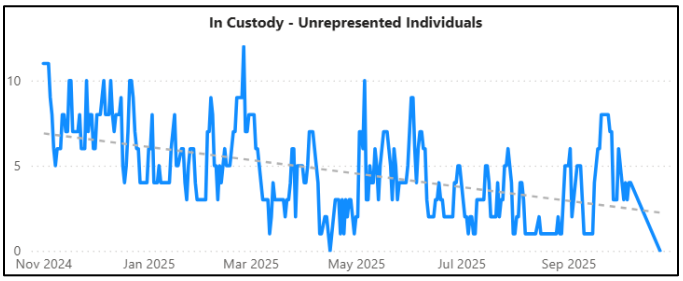
| Provider Type | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Contractors | 3 | 3 | 0 |
| Hourly | 237 | 238 | 1 |
| OPDC Trial Division | 56 | 56 | 0 |
| **Total (Cumulative)** | 295 | 296 | 1 |

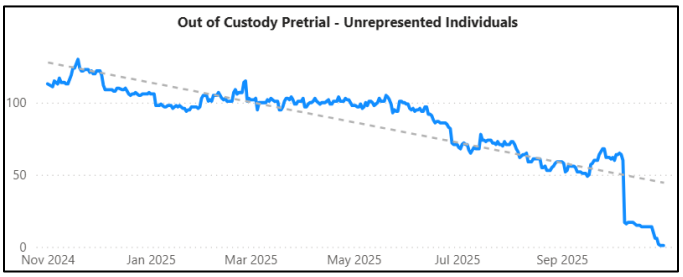
## Unrepresented Report

October 2025

### Unrepresented Trends

As of October 31, 2025, Coos County reported one out-of-custody and no in-custody unrepresented individuals. In 2024, the county's only provider lost four attorneys, approximately 50% of its capacity, resulting in a fourfold increase in unrepresented individuals from May to October. The OTD Central Valley Regional Division assigned an attorney locally in November 2024, gradually reducing unrepresented numbers. The decline accelerated in May 2025 with monthly resolution dockets. The start of the 2025-27 contracts, which added a second provider, further decreased the number of unrepresented individuals. With this stabilization, OPDC plans to reassign its Trial Division attorney back to Marion County.




### Early Resolution Case Docket

October marked the final early resolution docket, which allows defendants with low-level, often property-related, charges to review plea offers with a defense attorney and settle charges. Since beginning in May 2025, a total of 127 cases have been included on this docket. Of those cases, 49 were resolved, removing them from the unrepresented list. 41 cases involved individuals who failed to appear in court, resulting in a bench warrant. Remaining cases were temporarily added back to the unrepresented list, before being taken off the list in early October once the new 2025-2027 public defense contracts were signed.

# DOUGLAS

## Unrepresented Report
October 2025

In-custody individuals **decreased** by 2, and out-of-custody individuals **decreased** by 48, or 19.2% in October.

| | 7/3/23 | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|---|
| **In-Custody** | 4 | 11 | 9 | -2 |
| **Out-of-Custody Pretrial** | 26 | 250 | 202 | -48 |

Douglas County contract providers took 177 cases in September; their MAC utilization is 82.6%.

| Provider Type | Aug | Sept | Chg |
|---|---|---|---|
| Consortia | 79.1% | 76.7% | -2.5% |
| Non-Profits | 84.9% | 86.1% | 1.2% |
| Other | 79.7% | 79.4% | -0.2% |
| **Total MAC Utilization** | **82.4%** | **82.6%** | **0.2%** |
| **Total Cases (7/23-9/25)** | **4,019** | **4,196** | **177** |

The Oregon Trial Division took 2 cases in October.

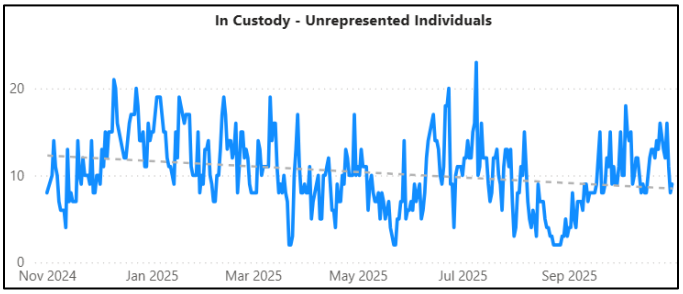
| OTD Region | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Central Region | 88 | 90 | 2 |
| Southern Region | 32 | 32 | 0 |
| **Total (Cumulative)** | 120 | 122 | 2 |

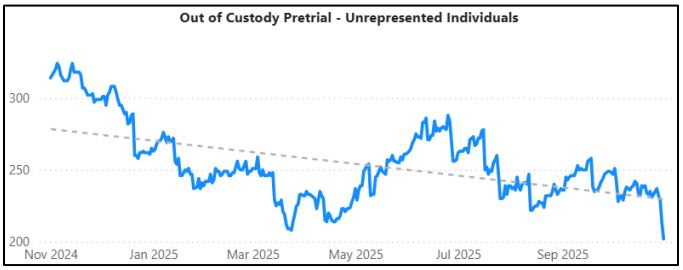
OPDC assignment coordinators identified counsel for 100 cases in October, 45 of which were Betschart cases. Betschart assignments are reported below. As the number of in-custody, unrepresented individuals decline, so does the number of Betschart cases.

| Provider Type | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Contractors | 271 | 304 | 33 |
| Hourly | 292 | 304 | 12 |
| OPDC Trial Division | 52 | 52 | 0 |
| **Total (Cumulative)** | 610 | 655 | 45 |

### Unrepresented Trends

Progress in Douglas County has been mixed over the past twelve months. Overall, the county experienced a significant reduction in unrepresented individuals between November 2024 and the end of March 2025, followed by a rebound that persisted until the end of June. Numbers declined over the summer, only to stagnate in the fall. Most recently, Douglas saw a sharp decline with the start of the 2025-27 contracts.




### Looking Forward

Douglas County providers experienced considerable volatility throughout 2024. However, since the beginning of the year, conditions have stabilized. OPDC believes that the new contracts will give Douglas County additional resources and that investments in the Supervised Practice Portfolio Examination, an alternative to the Bar, and in recently barred attorneys will generate returns within the next six months.

# JACKSON

## Unrepresented Report
October 2025

In-custody individuals **increased** by 16, and out-of-custody numbers **decreased** by 17, or 3.6% in October.

| | 7/3/23 | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|---|
| **In-Custody** | 4 | 13 | 29 | 16 |
| **Out-of-Custody Pretrial** | 6 | 478 | 461 | -17 |

Jackson County contract providers took 339 cases in September; their MAC utilization is 96.1%.

| Provider Type | Aug | Sept | Chg |
|---|---|---|---|
| Consortia | 95.7% | 96.3% | 0.6% |
| Non-Profits | 95.9% | 95.8% | -0.1% |
| Other | 95.5% | 96.7% | 1.2% |
| **Total Cases (7/23-9/25)** | **7,916** | **8,255** | **339** |
| **MAC Utilization** | **95.8%** | **96.1%** | **0.3%** |

The Oregon Trial Division took 85 cases in October.

| OTD Region | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Central Region | 15 | 15 | 0 |
| Southern Region | 1,075 | 1,160 | 85 |
| **Total (Cumulative)** | 1,090 | 1,175 | 85 |

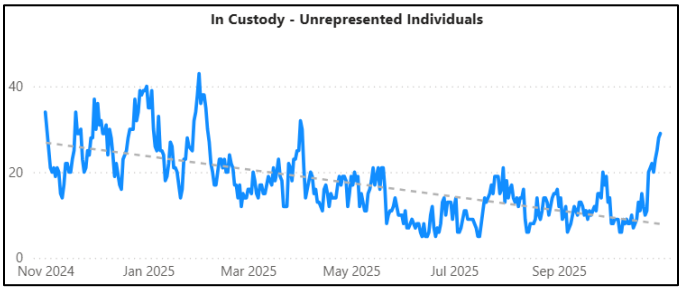
OPDC assignment coordinators identified counsel for 41 cases in October, 31 of which were Betschart cases. Betschart assignments are reported below. As in-custody unrepresented numbers decline, so do the number of Betschart cases.

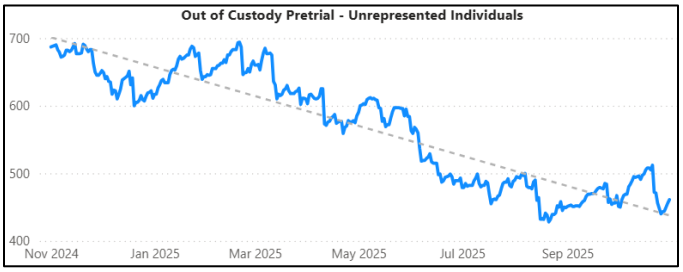
| Provider Type | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Contractors | 125 | 139 | 14 |
| Hourly | 75 | 84 | 9 |
| OPDC Trial Division | 129 | 137 | 8 |
| **Total (Cumulative)** | 327 | 358 | 31 |

**Unrepresented Trends**

Jackson County had 461 out-of-custody and 29 in-custody unrepresented individuals as of October 31, 2025. Out-of-custody unrepresented dropped from 687 in November 2024 to 461, a 32% decrease. In-custody counts varied monthly due to capacity issues, with 29 unrepresented individuals as of October 31, 2025.

OPDC expects continued positive momentum in Jackson County due to (i) the addition of 3.25 MAC in the 2025-27 contract, (ii) five attorneys who are participating in OPDC's 115% program, and (ii) ongoing work from the OTD Southern Regional Division, including staffing the Early Disposition Docket.




**Oregon Trial Division and Early Disposition Program**

Jackson County's progress largely stems from its Early Disposition Program (EDP), a special docket where the district attorney identifies low-level and diversion-eligible cases at arraignment for upfront plea offers. Once clients accept and show willingness, cases are added to the EDP docket and staffed by the OTD Southern Regional Division. Since May 2025, the EDP has resolved 147 cases that would have otherwise been on the unrepresented list. Additionally, the division staffs an arraignment docket weekly and handles all in-custody cases that day, preventing them from becoming unrepresented.

# MARION

## Unrepresented Report
October 2025

In-custody individuals **remained the same**, and out-of-custody individuals **decreased** by 61, or 39.7% in October.

| | 7/3/23 | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|---|
| **In-Custody** | 4 | 12 | 12 | 0 |
| **Out-of-Custody Pretrial** | 26 | 151 | 91 | -61 |

Marion County contract providers took 620 cases in September; their MAC utilization is 72.5%.

| Provider Type | Aug | Sept | Chg |
|---|---|---|---|
| Consortia | 76.6% | 76.5% | -0.1% |
| Non-Profits | 66.6% | 67.9% | 1.3% |
| **Total Cases (7/23-9/25)** | **11,494** | **12,114** | **620** |
| **MAC Utilization** | **71.9%** | **72.5%** | **0.6%** |

The Oregon Trial Division took 38 cases in October.

| OTD Division | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Northwest Region | 6 | 8 | 2 |
| Central Region | 617 | 659 | 42 |
| Southern Region | 2 | 2 | 0 |
| **Total (Cumulative)** | **625** | **662** | **38** |

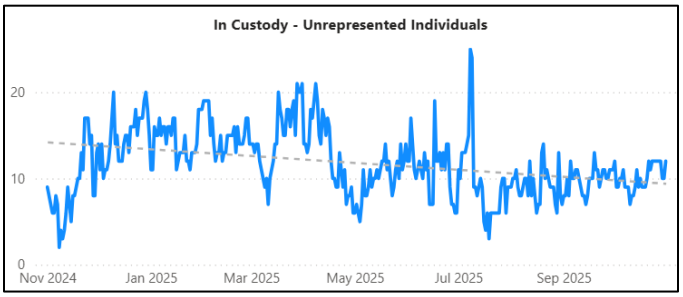
OPDC assignment coordinators identified counsel for 56 cases in October, 2 of which were Betschart cases. Betschart assignments are reported below. As the number of in-custody, unrepresented individuals decline, so does the number of Betschart cases.

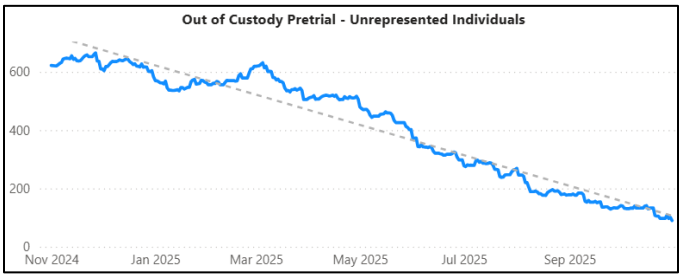
| Provider Type | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Contractors | 26 | 26 | 0 |
| Hourly | 126 | 128 | 2 |
| OPDC Trial Division | 57 | 58 | 1 |
| **Total (Cumulative)** | **209** | **211** | **2** |

### Unrepresented Trends

Over the past year, Marion County has made progress on the unrepresented crisis. On October 31, 2025, there were 91 out-of-custody pretrial unrepresented individuals, an 85% decrease from last year.

Key factors include court docket changes in March 2025, increased capacity from MCAD in January, higher case appointment rates by the PDMC from March to June 2025, exceeding previous rates by 66 percent, and the addition of the Oregon Trial Division, which has handled about 600 cases and staffed a new early resolution docket since October 2025.




### Looking Forward

Despite the positive news and momentum for Marion County, recent developments are a cause for concern. Specifically, the Public Defender of Marion County did not elect to sign the 2025-27 contract and filed a lawsuit against OPDC, arguing that the contract is unconstitutional. OPDC is working closely with the other provider in the county, MCAD, and is utilizing the OTD Central Valley Regional Trial Division to ensure that the positive momentum being made in the county is not lost. Thus far, our joint efforts have been successful, as the downward trajectory in unrepresented cases has continued in spite of this unexpected development.

# MULTNOMAH

## Unrepresented Report
October 2025

In-custody individuals **decreased** by 6, and out-of-custody individuals **decreased** by 39, or 3.3% in October.

| | 7/3/23 | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|---|
| **In-Custody** | 4 | 80 | 74 | -6 |
| **Out-of-Custody Pretrial** | 26 | 1,176 | 1,137 | -39 |

Multnomah County contract providers took 1,270 cases in September; their MAC utilization is 88.5%.

| Provider Type | Aug | Sept | Chg |
|---|---|---|---|
| Consortia | 92.1% | 95.0% | 2.8% |
| MDI | 78.1% | 78.3% | 0.2% |
| MPD | 93.2% | 93.2% | 0.0% |
| Other | 80.1% | 80.1% | 0.0% |
| **Total Cases (7/23-9/25)** | **27,428** | **28,698** | **1,270** |
| **MAC Utilization** | **88.0%** | **88.5%** | **0.5%** |

The Oregon Trial Division took 10 cases in October.

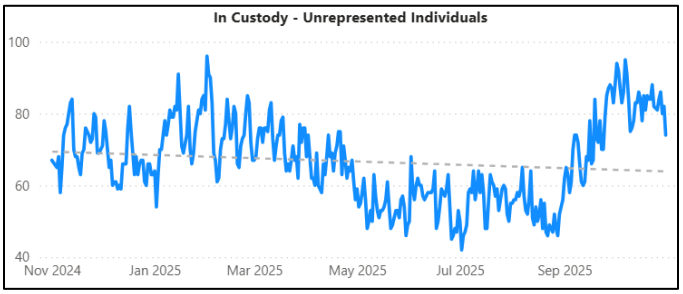
| OTD Region | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Northwest Region | 477 | 487 | 10 |
| Central Region | 10 | 10 | 0 |
| **Total (Cumulative)** | **483** | **493** | **10** |

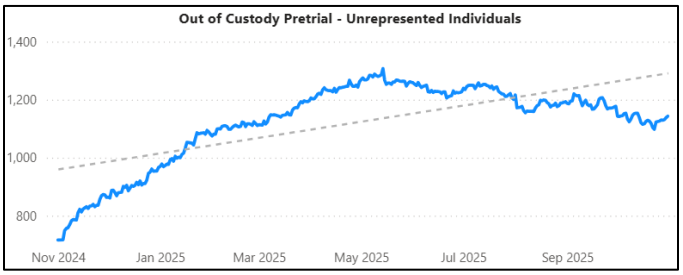
OPDC assignment coordinators identified counsel for 72 cases in October, 33 of which were Betschart cases. Betschart assignments are reported below.

| Provider Type | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Contractors | 43 | 44 | 1 |
| Hourly | 755 | 786 | 31 |
| OPDC Trial Division | 151 | 152 | 1 |
| **Total (Cumulative)** | **948** | **981** | **33** |

### Unrepresented Trends

Since peaking in mid-May 2025, the number of unrepresented individuals in Multnomah County have decreased, though more slowly than in other crisis counties. Since May 15, 2025, the number of out-of-custody unrepresented persons has fallen by just over 13% to 1,137, while in-custody numbers have increased due to a two-month upward trend.




### Looking Forward

Making significant progress in Multnomah County remains challenging. OPDC recently partnered with the court and district attorney to pilot a special docket in the jurisdiction, staffed by the OTD Northwest Regional Division. While helpful, a single docket isn't enough given the large scope of the unrepresented numbers in Multnomah County. OPDC believes increasing overall capacity will provide relief. Initial contracts with local public defense providers included 87.40 FTE, but with the addition of new law graduates, OPDC will fund an additional 15 FTE by December. Additionally, three attorneys will participate in OPDC's Exceed Caseload Program, which compensates for caseloads over 100% MAC. OPDC leadership is also working with the county courts and district attorney to develop further strategies for the crisis.

# WASHINGTON

## Unrepresented Report
October 2025

In-custody individuals **decreased** by 26, and out-of-custody individuals **decreased** by 100, or 19.3% in October.

| | 7/3/23 | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|---|
| **In-Custody** | 4 | 44 | 18 | -26 |
| **Out-of-Custody Pretrial** | 26 | 517 | 417 | -100 |

Washington County contract providers took 1,323 cases in September; their MAC utilization is 99.5%.

| Provider Type | Aug | Sept | Chg |
|---|---|---|---|
| Consortia | 105.6% | 109.6% | 4.0% |
| Non-Profits | 100.9% | 99.6% | -1.3% |
| Other | 93.1% | 95.1% | 2.1% |
| **Total Cases (7/23-9/25)** | 25,365 | 26,688 | 1,323 |
| **MAC Utilization** | 98.8% | 99.5% | 0.7% |

The Oregon Trial Division took 4 cases in October.

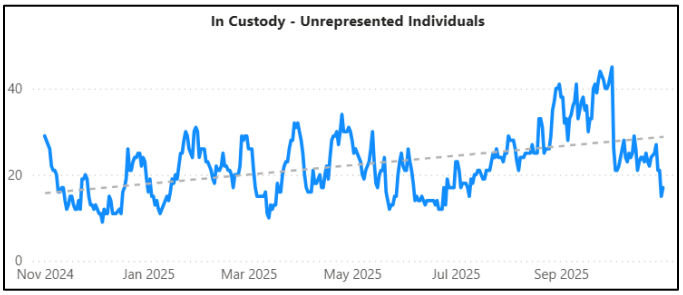
| OTD Region | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Northwest Region | 336 | 340 | 4 |
| Central Region | 8 | 8 | 0 |
| **Total (Cumulative)** | 344 | 348 | 4 |

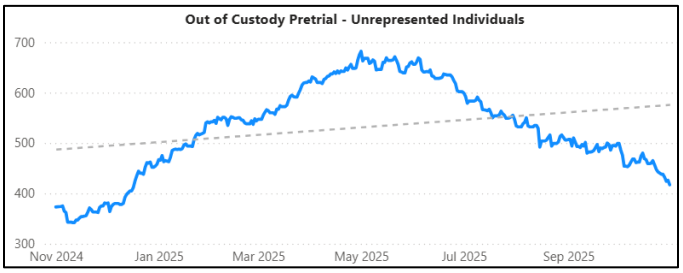
OPDC assignment coordinators identified counsel for 101 cases in October, 22 of which were Betschart cases. Betschart assignments are reported below. As the number of in-custody, unrepresented individuals decline, so does the number of Betschart cases.

| Provider Type | 9/30/25 | 10/31/25 | Chg |
|---|---|---|---|
| Contractors | 61 | 65 | 4 |
| Hourly | 416 | 432 | 16 |
| OPDC Trial Division | 83 | 85 | 2 |
| **Total (Cumulative)** | 553 | 575 | 22 |

### Unrepresented Trends

Washington County reported 417 out-of-custody and 18 in-custody unrepresented individuals on October 31st. Similar to Multnomah County, the unrepresented population grew in early 2025, peaking at 738 in May 2025 before declining to October 2025 levels. Most of the unrepresented are out-of-custody pretrial individuals. Notably, in-custody unrepresented individuals increased in late summer and fall as the 2023-25 contract ended, but this trend reversed after the new contract began on October 1, 2025.




### Looking Forward

The 2025-2027 contracts will address capacity issues in Washington County. Four attorneys joined the Exceed Caseload Program, which compensates for caseloads over 100% MAC. Initial contracts with Washington County for adult criminal cases included 51.80 FTE. After recent graduates are sworn in, OPDC will fund an additional 12.48 FTE through a contract amendment by December.

**OPDC Agency Overview**

| SCR | Appropriation | Funding Purpose: | Original Budget Total Appropriation | Unscheduled Appropriation | Available Appropriation | October 2025 Expenditures | Planned Expenditures | Appropriation Variance |
|---|---|---|---|---|---|---|---|---|
| | **General Funds** | | | | | | | |
| 100 | Executive Division | Main Appn | $ 3,356,449 | | $ 3,356,449 | $ 477,977 | $ 3,027,374 | $ (148,902) |
| 200 | Compliance, Audit, and Performance Division | Main Appn | $ 8,645,518 | | $ 8,645,518 | $ 1,271,005 | $ 8,412,641 | $ (1,038,128) |
| 300 | Appellate Division | Main Appn | $ 28,826,029 | | $ 28,826,029 | $ 4,902,759 | $ 25,820,892 | $ (1,897,622) |
| 400 | Adult Trial Division | Main Appn | $ 329,576,667 | $ (16,500,000) | $ 313,076,667 | $ 46,551,645 | $ 265,504,245 | $ 1,020,777 |
| 400 | Adult Trial Division | Civil Commitment | $ 1,111,456 | | $ 1,111,456 | $ - | $ - | $ 1,111,456 |
| 415 | Juvenile Trial Division | Main Appn | $ 45,417,129 | $ (2,300,000) | $ 43,117,129 | $ 7,723,618 | $ 40,129,597 | $ (4,736,086) |
| 425 | Preauthorized Expenses Division | Standard-Main Appn | $ 94,115,182 | | $ 94,115,182 | $ 13,871,311 | $ 78,947,702 | $ 2,333,526 |
| 425 | Preauthorized Expenses Division | THIP | $ 7,307,131 | | $ 7,307,131 | $ 4,044,238 | $ 3,262,893 | $ - |
| 450 | Court Mandated Expenses Division | Standard-Main Appn | $ 52,272,158 | | $ 52,272,158 | $ 7,041,136 | $ 35,272,221 | $ 12,057,062 |
| 450 | Court Mandated Expenses Division | THIP | $ 11,121,931 | | $ 11,121,931 | $ 8,076,537 | $ 6,098,004 | $ (3,052,610) |
| 475 | Trial Representation Division | Main Appn | $ 18,090,808 | $ (1,000,000) | $ 17,090,808 | $ 2,859,888 | $ 17,693,107 | $ (3,462,187) |
| 500 | Parent Child Representation Program | Main Appn | $ 46,737,940 | $ (2,300,000) | $ 44,437,940 | $ 8,275,176 | $ 37,015,546 | $ (852,782) |
| 600 | Administrative Services Division | Main Appn | $ 23,771,498 | | $ 23,771,498 | $ 5,358,635 | $ 24,033,666 | $ (5,620,803) |
| 600 | Administrative Services Division | FCMS | $ 693,866 | | $ 693,866 | $ - | $ - | $ 693,866 |
| 700 | Special Programs, Contracts and Distributions Division | Guardianship | $ 1,627,594 | | $ 1,627,594 | $ 205,243 | $ 1,422,351 | $ - |
| 700 | Special Programs, Contracts and Distributions Division | County Discovery | $ 6,348,960 | | $ 6,348,960 | $ 671,241 | $ 5,677,719 | $ - |
| 700 | Special Programs, Contracts and Distributions Division | Law School Program | $ 3,437,460 | | $ 3,437,460 | $ 502,119 | $ 2,935,341 | $ - |
| 800 | Debt Service | Capital Debt Service | $ 2,392,223 | | $ 2,392,223 | $ - | $ 2,392,223 | $ - |
| | **Total General Funds** | | $ 684,849,999 | $ (22,100,000) | $ 662,749,999 | $ 111,832,528 | $ 557,645,522 | $ (3,592,433) |
| | **Other Funds** | | | | | | | |
| 415 | Juvenile Trial Division | Title IV-E | $ 7,393,486 | $ - | $ 7,393,486 | $ 921,683 | $ 6,471,803 | $ - |
| 425 | Preauthorized Expenses Division | Title IV-E | $ 1,037,357 | $ - | $ 1,037,357 | $ - | $ 1,037,357 | $ - |
| 450 | Court Mandated Expenses Division | ACP | $ 4,449,677 | $ - | $ 4,449,677 | $ 310,652 | $ 4,139,040 | $ (15) |
| 450 | Court Mandated Expenses Division | Title IV-E | $ 2,098,261 | $ - | $ 2,098,261 | $ - | $ 2,098,261 | $ - |
| 500 | Parent Child Representation Program | Title IV-E | $ 11,684,477 | $ - | $ 11,684,477 | $ 1,128,896 | $ 10,555,581 | $ - |
| 600 | Administrative Services Division | FCMS | $ 13,769,781 | $ - | $ 13,769,781 | $ - | $ 13,769,781 | $ - |
| 600 | Administrative Services Division | FCMS | $ 145,219 | $ - | $ 145,219 | $ - | $ 145,219 | $ - |
| | **Total Other Funds** | | $ 40,578,258 | $ - | $ 40,578,258 | $ 2,361,231 | $ 38,217,042 | $ (15) |
| | **Total All Funds** | | $ 725,428,257 | $ (22,100,000) | $ 703,328,257 | $ 114,193,759 | $ 595,862,564 | $ (3,592,448) |

***Month Ending October 2025***

Oregon Public Defense Commission

**MEMORANDUM**

**Date:** **December 5, 2025**

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

**Cc:** **Ken Sanchagrin, Interim Executive Director**

**From:** **Trial Support and Development Team (TS&D)**

**Re:** **Juvenile Dependency Performance Standards, Parent and Child Representation Program (PCRP) Expectations, Psychiatric Service Review Board Standards, and Civil Commitment Standards**

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**Nature of Presentation:** Update/Possible Action Item

**Background:**

At the November Workgroup meeting, TS&D presented draft Performance Standards for Attorneys in Dependency Cases and new PCRP Expectations. TS&D shared both documents with the provider community for comment. TS&D is submitting drafts to the Commission for approval at the December meeting.

TS&D drafted Dependency Standards with input from the provider community and closely track the Oregon State Bar standards. TS&D developed Expectations for PCRP providers at the Commission's request in October. Providers and the Commission provided input into this draft.

TS&D is requesting the Commission vote to approve Dependency Standards and PCRP Expectations.

TS&D is also submitting two new Standards packages to the Commission for review. The expectation is that the Commission will:

- Receive the Civil Commitment and Psychiatric Service Review Board (PSRB) Standards and Civil Commitment Standards;

- review and comment on PSRB and Civil Commitment standards before the January meeting; and
- vote to approve PSRB and Civil Commitment Standards at the January Commission meeting.

**Implementation:**

OPDC will implement the Dependency Standards and PCRP Expectations upon approval and posting.

OPDC will hold the drafts of the PSRB and Civil Commitment until after the Commission votes on them in a subsequent meeting. TS&D would like the Commission to vote in January on these Standards.

**Agency Recommendation:**

The agency recommends the Commission accept the briefing and approve the Dependency Standards and the PCRP Expectations.

**Fiscal Impact:**

Full implementation of these standards will likely require investments in OPDC infrastructure and staff, to implement training programs and other supports contemplated by these standards. Such investments were not part of the agency's request budget for 2025-27, and the agency will address in future legislative sessions.

**Agency Proposed Motion:**

TS&D proposes that the Commission approve the Juvenile Dependency Performance Standards and PCRP Expectations. TS&D also requests that the Commission receive and review PSRB Standards and Civil Commitment Standards.

# Parent Child Representation Program (PCRP) Attorney Expectations

# (DRAFT)

November 2025

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# Parent Child Representation Program Lawyer Expectations

## INTRODUCTION

### PCRP History

The Parent Child Representation Program (PCRP) was initially funded by the Oregon State Legislature in 2013 to enhance the quality of legal representation for parents and children in juvenile dependency and termination of parental rights cases. It later expanded to juvenile delinquency cases. PCRP started in Linn and Yamhill County in August of 2014. Since then, the program has expanded to eight other counties: Columbia (2016), Coos (2018), Lincoln (2018), Multnomah (2020), Benton (2021), Clatsop (2021), Douglas (2021), and Polk (2021).

The purpose of PCRP is to ensure competent and effective legal representation throughout the life of the case by ensuring reduced lawyer caseloads, the provision of specialized support services, and adherence to best practices for lawyer performance. PCRP aims to achieve positive outcomes for children and families through the reduction of the use of foster care and reduced time to permanency for children. Repeated studies show that when lawyers for parents have reasonable caseloads, the lawyers spend more time with parents and, as a result, both parents and children have better experiences with the child welfare system[1]. When PCRP expanded to delinquency cases, there was a similar expectation – more lawyer time and a holistic defense team will lead to better outcomes for children such as fewer interactions with the delinquency system, more successful completions of probation, reduced custody time, and better case outcomes[2].

In 2016, the legislatively created Oregon Task Force on Dependency Representation released a report recommending in part that OPDC adopt PCRP statewide[3]. It found that high quality and consistent legal representation is necessary to ensure successful navigation and participation in dependency proceedings. Additionally, it found that improved representation correlates with improved outcomes for families and cost savings and efficiencies for states[4]. This held true for PCRP which had been operating for two years at the time of the report:

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[1] Laver, *Improving Representation for Parents in the Child Welfare System*, American Bar Association Children's Rights Litigation (2013).
Courtney, Hook, and Orme, *Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing of Permanency Outcomes for Children in Foster Care*, Partners For Our Children Discussion Paper (2011)

[2] James M. Anderson, Maya Buenaventura and Paul Heaton, *The effects of holistic defense on criminal justice outcomes,* Vol. 132, No. 3(Harvard Law Review January 2019). Note – this article discusses criminal representation and the impacts of holistic defense which has shown financial savings due to reduction in custodial sentences and length of sentence without harming public safety.

[3] Oregon Task Force on Dependency Representation Report (2016)

[4] Id at 17.

- Reduced Rate of Foster Care: The initial two PCRP counties had an average foster care reduction rate of 19% in 2014 and 13% during the first six months of 2015, compared to a statewide decrease of 4.33% in 2014 and a statewide increase of 0.44% during the first six months of 2015.[5]
- Increased Reunification Rate: In the initial two PCRP counties, from 2014 to June 2015, the rate of reunification increased by 6.5% while the increase was 1.7% statewide.[6]

**PCRP Program**

PCRP is a multidisciplinary model of legal representation for parents, children, and youth in juvenile court proceedings. A multidisciplinary legal team means the representation team consists of more than just a lawyer - it includes individuals with other areas of expertise. In PCRP, the case managers assist the lawyer and client from a social work perspective. The PCRP key components include:

1) Workload model - Reasonable caseloads that make it possible for lawyers to have frequent contact with clients, conduct independent investigations, and advocate in and out of court at every stage of the juvenile court case,
2) Case Managers - Inclusion of social work case managers as part of the legal representation team in 10% to 15% of cases, and
3) Enhanced oversight and accountability.

*Workload model*

A 1.0 FTE PCRP lawyers maintains an open workload of 80 cases. A 1.0 FTE non-PCRP lawyer contracts under the Maximum Attorney Caseload (MAC) model which requires 69 *new* dependency case assignments per year, or 132 *new* delinquency case assignments per year.[7] Statewide, 86.2%[8] of dependency cases take over a year to get to their first permanency hearing. The permanency hearing is where the court assesses a parent's progress and considers if the plan for the child should remain reunification with parent or switch to new plan such as adoption or guardianship. Cases continue for varying lengths of time, with some cases staying on a lawyer's caseload for multiple years. The non-PCRP model does not account for existing open cases from the prior year, meaning these lawyers will have significantly higher caseloads.

*Case Managers*

Case managers fulfill a social work function as part of the multidisciplinary defense team. They work as an agent of the lawyer to assess and address client needs,

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[5] Id

[6] Id

[7] Lawyers who take cases in dependency and delinquency use a mixed-caseload calculator to determine how many of each case type to take in a year. For example, if they took 50 new dependency cases in a year, they would also take 37 new delinquency cases that same year.

[8] This is an average based on Oregon Judicial Department data from 2017-2024. See PowerBI Dashboard – Dependency Cases Filed – Time To first Permanency Hearing

motivate parents, develop alternative plans for children, youth and families for visitation and release from custody and much more. Case managers are a limited resource. OPDC contracts directly with case managers to provide coverage for 10-15% of cases in PCRP counties. Their work does not encompass tasks performed by juvenile court counselors or Oregon Department of Human Services (ODHS) caseworkers. Case managers often improve a client's relationship with caseworkers and counselors, which is a driver in improved outcomes. Case managers receive training, support, and oversight by two administrators. The Case Manager Administrators recruit new case managers, manage the referral process, provide training, direct case support, and meet with system providers and partners for feedback in PCRP counties.

Case managers are accessible to all lawyers through the Pre-Authorized Expense (PAE) system. However, PAE case managers do not receive any technical support or training and have no oversight from OPDC. Because there is no active recruitment there are also very few individuals performing case management services through the PAE system.

*Enhanced Oversight and Accountability*
PCRP lawyers and case managers are the only programs that submit time tracking to OPDC in invoice or report form. They have consistent meetings with OPDC ever year going over caseloads, county trends, time tracking issues, and case manager usage.

## PCRP ATTORNEY EXPECTATIONS

PCRP lawyers have fewer open cases open than non-PCRP juvenile lawyers. They also have access to trained and supported Case Managers, and more opportunity for advocacy and attention to individual cases. While all juvenile lawyers must meet the same baseline standards, PCRP lawyers have higher expectations. This document outlines the PCRP expectations.

OPDC understands that some of these expectations rely on client participation and responsiveness. In some cases, a client is unwilling or unable to engage. In those circumstances the lawyer must make reasonable efforts towards engagement. For the purpose of this document, when not specifically defined under the expectation, "attempt" means that the lawyer tries multiple times using multiple methods to achieve an outcome. The type of attempts and number must be reasonable based on the totality of the case circumstances. Extra attention and effort must be spent towards clients under 18.

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## EXPECTATION 1 – CHILD CLIENT VISITATION

A PCRP lawyer must personally visit their client where they are residing every six months.

If the child is placed out of state, the lawyer is only required to visit in person once per year. The other visit may be conducted by other members of the lawyer's defense team, by video or phone.

The lawyer must visit the client in home when a child is returned to a parent. The lawyer should visit their client anytime a placement change occurs. If the lawyer is unable to, a staff member may visit in the lawyer's place.

A lawyer is exempt from this requirement if the child-client's location is unknown or if there is strong evidence the child-client will be adversely affected by communicating with their lawyer. If a child-client refuses to communicate with their lawyer, the lawyer must still visit their placement, unless it will adversely impact the child-client or the case.

## EXPECTATION 2 – YOUTH CLIENT VISITATION (DELINQUENCY)

1. Pre-Trial

A PCRP lawyer must meet with their client in person in a confidential setting once per month. Between monthly meetings, the lawyer must have at least one confidential conversation with client.

2. Post Adjudication:

A. In custody youth clients:

A PCRP lawyer must regularly visit their in-custody youth clients and have regular phone or text contact in between in person visits. The lawyer must visit in person at least every six months.

B. Out of custody youth clients:

A PCRP lawyer should attempt to regularly meet with the youth in office, the youth's home, or in the community. The lawyer must have or attempt to have an in-person meeting at least every six months. Between in person meetings the lawyer should maintain regular phone or text contact with the youth.

An attempt to meet with a client means the lawyer has reached out multiple times to the client, the parents/resource placement (if appropriate), or school (if appropriate). The lawyer must use the client's preferred method of reaching out. If a client refuses or does not respond, the lawyer should attempt to meet the client in person.

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## EXPECTATION 3 – ATTENDANCE AT SUBSTANTIVE CLIENT MEETINGS

A PCRP lawyer must attend a majority of substantive client meetings that impact or affect their client's case or ability to meet court expectations. This includes but is not limited to:

1. Substantive meetings with Oregon Department of Human Services (ODHS) Caseworker

   Some clients and caseworkers communicate and meet as often as daily or weekly. Lawyers are not expected to participate in such frequent meetings or discussions. However, the lawyer should participate in more substantive meetings that cover things like safety planning, return criteria, and client progress. If no such meetings are scheduled, the lawyer should schedule them as appropriate.

2. Wraparound Service meetings (WRAP)

   WRAP is a program for multi-system involved children and their families. WRAP is an intensive team-based planning process that helps children and families meet their goals. The team consists of the child, family members, natural supports, and professionals.

3. Family Decision Meetings (FDM)
   A FDM is a family meeting coordinated by ODHS that brings together relevant family members and their representatives to discuss the child needs, parent/s needs, reunification, and other relevant case related topics.

4. Substantive Juvenile Court Counselor (JCC) Meetings

   As with ODHS meetings discussed above, some clients interact with their JCC weekly or daily. A lawyer is not expected to participate in those meetings. However, when the JCC and youth are meeting about substantive issues or issues that could impact custody status, court reports, or services, the lawyer is expected to attend. If no meetings are scheduled, the lawyer should discuss with client if any meetings should be scheduled.

5. Substantive and relevant meetings client may have with others.

   Clients sometimes have other meetings that impact their case. These may include but are not limited to Individualized Education Program (IEP) meetings, feedback sessions with a psychological evaluator, meetings with another party and/or their lawyer, and meetings with a school counselor. If the meeting is focused on another party such as a child, the lawyer and client should meet to discuss how to best be involved in the meetings.

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Anytime a lawyer has a meeting that involves their client and other participants, the lawyer must communicate or attempt to communicate with a client before the meeting to discuss the purpose and goals of the meeting. Attorneys should use client's preferred method of communication ( e.g., email, phone call, text, etc.) to schedule a time to discuss the meeting plan. The lawyer should prepare any needed documents, work with client at identifying helpful information to present or discuss and prepare the client for the type of information or feedback that may be discussed.

In the meetings, the lawyer should actively engage and support their client in engaging as appropriate. Even if the client is not in attendance, the lawyer should be prepared to participate and advocate as they are able to, to further the client's goals.

Following the meeting, the lawyer should complete any necessary follow-up tasks, debrief with the client, and determine if any additional next steps are needed.

## EXPECTATION 4 – CITIZEN REVIEW BOARD HEARINGS (CRB)

PCRP lawyers must attend their clients' Citizen Review Board (CRB) hearings. If a hearing is scheduled without a lawyer's knowledge, the lawyer must make an effort to have the hearing rescheduled. If the CRB is unwilling to reschedule, the lawyer must send a case manager, legal assistant, or investigator.

A PCRP lawyer must prepare for a CRB hearing. At a minimum, the lawyer will gather any necessary information prior to the meeting and discuss the CRB with the client. Following the CRB the lawyer must discuss the findings and any impact they may or may not have on a case.

## EXPECTATION 5 - ENGAGEMENT LETTER WITH EXPERTS

A PCRP lawyer must use an engagement letter with any expert or group of experts. This letter must lay out the request for the expert including materials to review, any interviews or evaluations the expert is conducting and, if appropriate, what expectation there will be for a report.

If there is information that should not be in writing, the lawyer is not obligated to include that information in an engagement letter.

## EXPECTATION 6 – CLIENT ENGAGEMENT

A PCRP lawyer must meet or attempt to meet with a client for a substantive conversation outside of the courthouse for the following events:

1. Any important decision affecting a child/youth client's life.
   If the lawyer is aware that other parties or the court is making a decision, the lawyer should discuss the decision and options with the client. If the lawyer is not aware prior to a decision being made, they must meet and discuss the decision, including what options the youth/child has after the fact.

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2. In response to client request for a meeting.
3. Following (and, when possible, before) significant transitions including but not limited to, initial removal, changes in placement for a child or youth, a child or youth returning to a parent, entering, or leaving residential treatment, etc.
4. When a significant change of circumstances must be discussed or when the lawyer learns of an emergency or significant event affecting the youth, child, or parent.

## EXPECTATION 7 – DELINQUENCY RELEASE HEARING PREPARATION FOR IN CUSTODY YOUTH

A PCRP lawyer must meet with any in custody delinquency clients and put together a comprehensive release plan and present it to the juvenile court. If lawyer has a case manager on the case, the lawyer and case manager should work together on the release plan.

In preparation for the release hearing the lawyer must discuss statutory release criteria with the youth and prepared to address the court regarding these factors including residence, school attendance, employment, compliance with release conditions such as no contact with alleged victims, and any release compliance monitoring. The lawyer should work with the youth, the youth's parents or caretakers, and the juvenile department to develop an appropriate release plan. The lawyer should seek out services and supports, as appropriate, to augment an appropriate release plan.

## EXPECTATION 8 – CASE MANAGER ASSIGNMENT

A PCRP lawyer must have or attempt to have a PCRP case manager assigned to 10-15% of their caseload. Attorneys request Case Mangers through the standard process developed and administered by the Case Manager Administrators. If their case goes on the Case Manager Waitlist, the lawyer must update the Case Manager Administrators of any change of circumstances that would impact the case priority.

## EXPECTATION 9– EFFECTIVE COLLABORATION WITH ASSIGNED PCRP CASE MANAGER

A PCRP lawyer must effectively use the PCRP case manager assigned to the case.

PCRP case managers are agents of the lawyer appointed to the case. The lawyer directs the actions of the case manager. PCRP lawyers must actively engage, communicate, and provide clear direction. While each case may have different requirements, examples of effective use include:

1. Oversight to ensure case managers provide appropriate services that are responsive to client's needs.

2. Direct case manager activities.
3. Timely sharing of all discovery and appropriate information about a client with a case manager.
4. Informing other parties that of case manager assignment and indicating what types of emails and communications the case manager should be included on.
5. Informing case manager of all relevant dates and rescheduled dates including but not limited to hearings, CRB, and ODHS meetings.
6. Including case manager on all communications with other parties as appropriate.
7. Communicating regularly with the case manager, including responding to any case manager questions in a timely manner. This also includes responding when a case manager asks for direction on how to respond to a situation or issue.
8. Discussing the case plan and case strategy with the Case Manager,
9. Consulting with case manager regarding client progress, client updates, and other relevant information a case manager can provide.
10. Regularly reviewing or discussing client and client's case with Case Manager.

**EXPECTATION 10 – TIMEKEEPING**

A PCRP lawyer must track their time following OPDC's standards and must stay abreast of OPDC timekeeping rules and submit reports timely.

**EXPECTATION 11 – TRACKING CLIENT TIME**

A PCRP lawyer is expected to spend 1/3 of their time with clients who have decision making capacity. OPDC tracks this using the PCRP Activity Report metric "client time."

**EXPECTATION 12 - PCRP MEETINGS WITH OPDC**

A PCRP lawyer must attend the OPDC scheduled bi-annual county PCRP meetings. If they cannot attend a meeting, they must reach out to OPDC Resource Counsel for updates and materials covered during the meeting.

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# Dependency Attorney Performance Standards With Commentary

## (DRAFT)

November 2025

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# STANDARDS FOR REPRESENTATION IN JUVENILE DEPENDENCY CASES

## INTRODUCTION:

Oregon Revised Statute 151.216(j) mandates that the Oregon Public Defense Commission (OPDC) "[d]evelop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards, and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards, and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state."

The following standards were developed by OPDC staff with input from a juvenile dependency defense provider workgroup. Per OPDC policy, these standards will be reviewed and revised one, two, and five years from adoption. OPDC welcomes ongoing provider input regarding the content and efficacy of these standards.

This iteration of the Standards was drawn heavily from the existing Oregon State Bar Specific Standards for Representation in Juvenile Dependency Cases from June of 2017. Each standard sets a baseline for practice of appointed defense work and is followed by commentary that supplements the baseline standards. OPDC recognizes that in any given case, some standards and commentary might be inapplicable or even mutually exclusive.

Commentary is particularly challenging as there are many times when the commentary is impractical or even against a client's best interest or desire. OPDC acknowledges that to practice law, exceptions to these baseline rules and their commentary must apply. The commentary provides additional considerations for counsel performing public defense. There are times when items listed in the commentary may be useful or helpful during representation. They are not meant to establish baseline minimum performance standards.

Juvenile Dependency practice standards depend on the role of the client. These standards address representation of children and representation of a parent or guardian.

OPDC is grateful to the prior work of the Oregon State Bar and the Oregon Public Defense Commission Dependency Standards Workgroup for the extensive work OPDC drew upon in the development process

# STANDARDS FOR REPRESENTATION OF CHILDREN

## STANDARD 1.1 – ROLE OF THE CHILD'S LAWYER

**A. The lawyer for child in a dependency case should provide quality and zealous representation at all stages of the case. The child-client's lawyer must determine whether the child-client has sufficient capacity to understand and form a lawyer-client relationship and whether the child-client is capable of making reasoned judgments and engaging in meaningful communication.**

**B. The child-client's lawyer must advocate for the child's expressed interests when the child has decision-making capacity, ensue that the child-client is afforded due process and other rights, and protect the child-client's other interests.**

**C. For a child-client with full decision-making capacity, the child-client's lawyer must maintain a normal lawyer-client relationship with the child-client, including taking direction from the child-client on matters normally within the child-client's control.**

**D. For a child-client with diminished capacity, the child-client's lawyer must maintain a normal lawyer-client relationship with the child as far as reasonably possible and take direction from the child-client as the child develops capacity. A child-client may have the capacity to make some decisions but not others.**

**E. When it is not reasonably possible to maintain a normal lawyer-client relationship generally or with regard to a particular issue, the child-client's lawyer must conduct a thorough investigation and then determine what course of action is most consistent with what the child-client's interests would be and act in accordance with that determination.**

Commentary

1. The child-client's lawyer should not confuse inability to express a preference with unwillingness to express a preference. If an otherwise competent child-client chooses not to express a preference on a particular matter, the lawyer should determine if the child-client wishes the lawyer to take no position in the proceeding or if the child-client wishes the lawyer or someone else to make the decision. In either case, the lawyer is bound to follow the child-client's direction.

2. The assessment of a child's capacity must be based upon objective criteria, not the personal philosophy or opinion of the child-client's lawyer. The assessment should be grounded in insights from child development science and should focus on the child-client's decision-making process rather than the child-client's choices. Lawyers should be careful not to conclude that a child-client suffers diminished capacity from a child-

client's insistence upon a course of action that the child-client's lawyer considers unwise or at variance with their views.

3. In determining whether a child-client has diminished capacity, the Report of the Working Group on Determining the Child's Capacity to Make Decisions, 64 Fordham L Rev 1339 (1996), suggests that a child-client's lawyer may consider the following factors:

    a. A child-client's ability to communicate a preference;
    b. Whether a child-client can articulate reasons for the preference;
    c. The decision-making process used by a child-client to arrive at the decision (e.g., is it logical, is it consistent with previous positions taken by the child-client, does the child-client appear to be influenced by others, etc.); and
    d. Whether a child-client appears to understand the consequences of the decision.

## STANDARD 1.2 – ADVOCATING FOR A CHILD'S EXPRESSED INTERESTS

**A. The child-client's lawyer must explain the nature of all legal and administrative proceedings to the extent possible given the child-client's age and ability and determine the child-client's position and goals. The child's lawyer also acts as a counselor and advisor. This involves explaining the likelihood of achieving the child-client's goals and, when appropriate, identifying alternatives for the child-client's consideration. In addition, the lawyer should explain the risks, if any, inherent in the child-client's position. Once the child-client has settled on positions and goals, the lawyer must vigorously advocate for the child-client.**

Commentary:

When a child-client is capable of instructing the lawyer, decisions that are ultimately the child-client's to make include whether to:

1. Contest, waive trial on petition, negotiate changes in or testify about the allegations in the petition;
2. Stipulate to evidence that is sufficient to form a basis for jurisdiction and commitment to the custody of the Department of Human Services (hereinafter "agency");
3. Accept a conditional postponement or dismissal; or
4. Agree to specific services or placements.

The lawyer should recognize that the child-client may be more susceptible to intimidation and manipulation than some adult clients. Therefore, the lawyer should ensure that the decision the child-client ultimately makes reflects the child-client's actual position.

## STANDARD 1.3 – INVESTIGATING AND PROTECTING A CHILD'S UNEXPRESSED INTERESTS

**A. When the child-client is incapable of directing the lawyer, the child-client's lawyer must thoroughly investigate the child-client's circumstances, including important family relationships, the child-client's strengths and needs, and other relevant information, and then determine what actions will protect the child-client's interests in safety and permanency.**

**B. If the child-client is able to verbalize a preference but is not capable of making an adequately considered decision, the child-client's verbal expressions are an important factor to consider in determining what course of action to take. The child-client's lawyer may wish to seek guidance from appropriate professionals and others with knowledge of the child, including the advice of an expert.**

**C. When the child-client's lawyer reasonably believes the child-client has diminished capacity, is at risk of physical, sexual, psychological, or financial harm, and cannot adequately act in their own interest, the child-client's lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the child-client.**

Commentary:

1. In determining what course of action to take when the child-client cannot provide direction, the child-client's lawyer must take into consideration the child-client's legal interests based on objective criteria as set forth in the laws applicable to the proceeding, the goal of expeditious resolution of the case, and the use of the least restrictive or detrimental alternatives available.
2. The child-client's needs and interests, not the adult's or professional's interests, must be the center of all advocacy. The child-client's lawyer should seek out opportunities to observe and interact with the very young child-client. It is also essential that lawyers for very young children have a firm working knowledge of child development and special entitlements for children under age five.
3. When a child with diminished capacity is unable to protect themselves from substantial harm, Oregon RPC 1.14 allows the child-client's lawyer to take action to protect the child-client. Oregon RPC 1.6 and Oregon RPC 1.14(c) implicitly authorize the child-client's lawyer to reveal information about the child-client, but only to the extent reasonably necessary to protect the child-client's interests. If any disclosure by the lawyer will have a negative impact on the child-client's case or the lawyer-client relationship, the lawyer must consider whether representation can continue and whether the lawyer-client relationship can be re-established. The child-client's lawyer should choose the protective action that intrudes the least on the lawyer-client

relationship and is as consistent as possible with the wishes and values of the child-client.

## STANDARD 1.4 – RELATIONSHIP WITH THE CHILD-CLIENT

**A. It is important that the child-client's lawyer, from the beginning of the case, is clear with the child-client that the child-client's lawyer works for the child-client, is available for consultation, and wants to communicate regularly.**

**B. The child-client's lawyer should not advise the court of the lawyer determination of the child-client's capacity and, if asked, should reply that the relationship between the child-client and the lawyer is privileged.**

**C. The child-client's lawyer may not request the appointment of a court-appointed special advocate (CASA) or other advocate for the child's best interests when the child-client is competent to make decisions.**

Commentary:

1. The child-client's lawyer should explain to the child-client the benefits of bringing issues to the lawyer's attention rather than letting problems persist. The child-client's lawyer should support the client and be sensitive to the child-client's individual needs. The child-client's lawyer may be the child-client's only advocate in the system and should act accordingly.

2. The child-client's lawyer should not give the impression to the child-client that relationships with other lawyers are more important than the representation the child-client's lawyer is providing the child-client. The child-client must feel that the child-client's lawyer believes in, and is actively advocating on, the child's behalf.

3. Requesting the judge to appoint a court-appointed special advocate (CASA) or other best-interest advocate may undermine the relationship the child-client's lawyer has established with the child-client. It also potentially compromises confidential information the child-client may have revealed to the lawyer. The lawyer cannot ever become the best-interest advocate, in part due to confidential information that the lawyer receives in the course of representation.

## STANDARD 1.5 – COLLATERAL REPRESENTATION

**A. The child-client's lawyer should advocate for actions necessary to meet the child-client's educational, health, cultural, and mental health needs.**

**B. The child-client's lawyer should take appropriate actions on delinquency, immigration, and collateral issues.**

Commentary:

Consistent with the child-client's wishes, the child-client's lawyer should identify the child-client's needs and seek appropriate services (by court order if necessary) to access entitlements, to protect the child-client's interests, and to implement an individualized service plan. These services should be culturally competent, community-based whenever possible, and provided in the least restrictive setting appropriate to the child-client's needs. These services may include, but are not limited to:

1. Family preservation-related prevention or reunification services;
2. Sibling and family visitation;
3. Domestic violence services, including treatment;
4. Medical and mental health care;
5. Drug and alcohol treatment;
6. Educational services;
7. Recreational or social services;
8. Housing;
9. Semi-independent and independent living services for youth who are transitioning out of care and services to help them identify and link with permanent family connections; and
10. Adoption services.

Consistent with the child-client's wishes, the child-client's lawyer should ensure that a child-client receives the most appropriate and least restrictive services to address any physical, mental, or developmental disabilities. These services may include, but should not be limited to:

1. Special education and related services;
2. Supplemental security income (SSI) to help support needed services;
3. In-home, community-based behavioral health treatment or out-patient psychiatric treatment;
4. Therapeutic foster or group home care; and
5. Residential/in-patient behavioral health treatment.

The child-client's lawyer should inquire regarding prior delinquency, status offense, or criminal history. The child-client's lawyer should advise the child-client to contact the lawyer immediately if the child-client is contacted by law enforcement, school authorities, or is otherwise under investigation.

The child-client's lawyer should identify and preserve relevant evidence related to mental health, cognitive functioning, disability, medical treatment, family history, and other mitigating factors.

Whenever possible, the child-client's lawyer in the dependency case should also represent the child-client in the delinquency case. If the child-client has two individual lawyers, they should collaborate regarding case strategy.

If a child-client's lawyer, in the course of representing a child-client under the age of 18, becomes aware that the child-client has a possible claim for damages that the child-client cannot pursue because of the child's age or disability, the child-client's lawyer should consider asking the court that has jurisdiction over the child-client to either appoint a guardian ad litem (GAL) for the child-client to investigate and take action on the possible claim or issue an order permitting access to juvenile court records by a practitioner who can advise the court whether to seek appointment of a GAL to pursue a possible claim.

The child-client's lawyer may pursue, personally or through a referral to an appropriate specialist, issues on behalf of the child-client, administratively or judicially, even if those issues do not specifically arise from the court appointment. Examples include:

1. Delinquency or status offender matters;
2. SSI and other public benefits;
3. Custody;
4. Paternity;
5. School and education issues;
6. Immigration issues;
7. Proceedings related to the securing of needed health and mental health services; and
8. Child support.

If the child-client might be eligible for Special Immigrant Juvenile Status, the child-client's lawyer should consider consulting with a dependency lawyer experienced in these cases and, if appropriate, consulting with an immigration lawyer. the child-client appears eligible for Special Immigrant Juvenile Status, the child's trial lawyer should advocate for immigration representation by the agency, if relevant. If the child-client does not qualify for representation by the agency in the immigration matter, the child-client's lawyer should consider attempting to locate an immigration lawyer to represent the child-client.

## STANDARD 2.1 – COMMUNICATION

**A. The child-client's lawyer must make reasonable efforts to make contact in writing, electronically, or in person within 3 business days. That contact should take into consideration the age and preferred method of contact for the child.**

**B. During the first meeting with the child-client, the child-client's lawyer must explain the lawyer's role, provide the child-client with contact information in writing, and establish an effective system for the child-client to communicate with the lawyer.**

**C. The child-client's lawyer must meet with the child-client regularly - and at least quarterly - throughout the case. The child-client's lawyer should ask the child-client questions to obtain information to prepare the case and strive to create a comfortable environment so the child-client can ask the lawyer questions. The child-client's lawyer should use these meetings to prepare for court as well as to counsel the child-client concerning issues that arise during the course of the case. Information obtained from the child-client should be used to propel the investigation.**

**D. The child-client's lawyer must ensure a qualified interpreter is involved when the child-client's lawyer and child-client are not fluent in the same language and are engaged in substantive legal discussions.**

Commentary:

When feasible, the child-client's lawyer should conduct an initial interview within three business days of appointment. At that meeting, the lawyer should provide the child-client with contact information in writing and explain that even when the lawyer is unavailable, the child-client should leave a message. The child-client's lawyer should respond to the child-client's messages within a reasonable time.

The child-client's lawyer should be available for in-person meetings or telephone calls to answer the child-client's questions and address the child-client's concerns. The child-client's lawyer and child-client should work together to identify and review short- and long-term goals, particularly as circumstances change during the case.

Meetings with the child-client should occur well before any hearings, not at the courthouse just minutes before the case is called before the judge. After the first meeting, the child-client's lawyer should have contact with the child-client:

1. Before court hearings, case status and pretrial conferences, mediations, and Citizen Review Board (CRB) reviews;
2. Before any important decision affecting the child-client's life;
3. In response to contact by the child-client;
4. Following (and, when possible, before) significant transitions, including but not limited to, initial removal and changes in placement; and
5. When a significant change of circumstances must be discussed with the child-client or when a child-client's lawyer learns of emergencies or significant events affecting the child-client;

In rare circumstances, a child-client's lawyer may have less-frequent than quarterly contact with their client, such as when their child-client's whereabouts are unknown, when there is strong evidence that the child-client will be adversely affected by communicating with the child-client's lawyer, or when the child-client refuses to communicate with their lawyer.

The child-client's position, interests, needs, and wishes change over time. The child-client's lawyer cannot be fully informed of such changes without developing a relationship through frequent contacts.

In order to provide competent representation, the child-client's lawyer should initially meet with the child-client in the child's environment to understand the child-client's personal context, unless the child-client indicates that he or she does not want this. The child-client's lawyer should determine whether developing and maintaining a lawyer-client relationship requires that the meetings occur in person in the child-client's environment or whether other forms of communication, such as a telephonic or electronic communication, are sufficient.

**The child-client's lawyer should explain to the child-client in a developmentally appropriate way all information and ascertain the child-client's position on the information. This includes the result of all court hearings and administrative proceedings, which will assist the child-client in having maximum input in determining the client's position.**

The child-client's lawyer should be aware of the child-client's cultural background and how that background affects effective communication with the child-client.

## STANDARD 2.2 - CONFIDENTIALITY

**A. The child-client's lawyer must abide by confidentiality laws, as well as ethical obligations, and adhere to both with respect to information obtained from or about the child-client.**

**B. The child-client's lawyer must fully explain to the child-client the advantages and disadvantages of choosing to exercise, partially waive, or waive a privilege or right to confidentiality. If the child-client's lawyer determines that the child-client is unable to make an adequately considered decision with respect to waiver, the lawyer must act with respect to waiver in a manner consistent with, and in furtherance of, the child-client's position in the overall litigation.**

**C. Consistent with the child-client's interests and goals, the child-client's lawyer must seek to protect from disclosure confidential information concerning the child-client.**

**D. The child-client's lawyer may only report abuse or neglect discovered through lawyer-client communication if the child-client consents to the disclosure.**

Commentary:

The child-client's lawyer should try to avoid publicity connected with the case that is adverse to the child-client's interests. The child-client's lawyer should protect the child-client's privacy interests, including asking for closed proceedings when appropriate. The child-client's lawyer must be aware that Article I, Section 10 of the Oregon constitution limits the ability for closed proceedings.

The child-client's lawyer should discuss with the child-client the potential consequences of communicating via electronic communication or broadcasting over social media. While social media may be a convenient way to locate and communicate with the child-client, the child-client's lawyer and child-client should be aware that communications may not be confidential or protected by lawyer-client privilege.

## STANDARD 2.3 – CONFLICTS OF INTEREST

**A. A child-client's lawyer, or a lawyer associated in practice, must not represent two or more clients who are parties to the same or consolidated juvenile dependency cases or closely related matters unless it is clear there is no conflict of interest between the parties as defined by the Oregon Rules of Professional Conduct. The child-client's lawyer should follow Oregon RPC 1.7 to 1.13 relating to conflicts of interest and duties to former clients.**

**B. In analyzing whether a conflict of interest exists, the child-client's lawyer must consider whether pursuing one client's objectives will prevent the lawyer from pursuing another client's objectives, and whether confidentiality may be compromised.**

Commentary:

The child-client's lawyer should be especially cautious when accepting representation of more than one child. The child-client's lawyer should avoid representing multiple siblings when their interests may be adverse and should never represent siblings when it is alleged that one sibling has physically or sexually abused another sibling.

The child-client may not be capable of consenting to multiple representations even after full disclosure. For the child-client incapable of considered judgment or unable to execute any written consent to continued representation in a case of waivable conflict of interest, the child-client's lawyer should not represent multiple parties.

## STANDARD 3.1 – EDUCATION, TRAINING AND EXPERIENCE OF CHILD-CLIENT'S LAWYER

**A. The child-client's lawyer must provide competent representation to a child-client. Competent representation requires the legal knowledge, skill, training, experience, thoroughness, and preparation reasonably necessary for the representation. The lawyer must not accept an appointment unless the lawyer is able to provide quality representation and diligent advocacy for the child-client.**

**B. The child-client's lawyer must be sufficiently familiar with applicable state and federal law affecting dependency proceedings so as to be able to recognize when they are relevant to a case, and they should be prepared to research these and other applicable issues.**

**C. The child-client's lawyer must know how to offer documents, photos, physical objects, electronic records, etc. into evidence.**

**D. Prior to being accepting appointment in a dependency, termination of parental rights, or permanent guardianship case, a lawyer must be certified for that case type by OPDC, either independently or under supervision.**

Commentary:

The child-client's lawyer must read and understand all state laws, policies, and procedures regarding child abuse, neglect, and other related matters, including but not limited to the following:

1. Oregon Revised Statutes (ORS) chapters 419A, 419B, and 419C, Oregon Juvenile Code;
2. ORS chapter 418, Child Welfare Services;
3. ORS 418.925–418.945, Refugee Child Act;
4. Oregon Revised Statutes concerning paternity, guardianships, and adoption;
5. ORS 417.200–417.260, Interstate Compact on Placement of Children, and Oregon Administrative Rules;
6. ORS 109.701–109.990, Uniform Child Custody Jurisdiction and Enforcement Act, and Oregon Administrative Rules;
7. The basic structure and functioning of the Department of Human Services and the juvenile court, including court procedures, the functioning of the CRB and CASA programs; and
8. Indian Child Welfare Act 25 USC §§ 1901 -1963; Bureau of Indian Affairs Guidelines; and Oregon Administrative Rules.

Newer lawyers are encouraged to work with mentors for the first three months and, at a minimum, should observe or co-counsel each type of dependency hearing from shelter care through review of permanent plan before accepting appointments.

The child-client's lawyer should have a working knowledge of child development, family dynamics, placement alternatives case and permanency planning, and services for children and families in dependency cases.

The child-client's lawyer should become familiar with normal growth and development in children and adolescents as well as common types of condition and impairments.

The child-client's lawyer should be familiar with the range of placement options in dependency cases and should visit at least two of the following:

1. A shelter home or facility;
2. A foster home;
3. A group home;
4. A residential treatment facility; or
5. A state child or adolescent psychiatric ward.

The child-client's lawyer must be familiar with case-planning and permanency-planning principles, and with child welfare and family preservation services available through the agency and available in the community and the problems they are designed to address.

## STANDARD 3.2 – OBLIGATIONS OF CHILD-CLIENT COUNSEL REGARDING WORKLOAD

**A. Before accepting appointment as counsel, the child-client's lawyer has an obligation to ensure that they have sufficient time, resources, knowledge, and experience to offer quality representation to a child-client in a dependency matter without hampering their representation of existing clients. If it later appears that the lawyer is unable to offer quality representation in the case, the lawyer must move to withdraw.**

**Commentary:**

A lawyer should have access to sufficient support services and resources to allow for quality representation, including investigation.

A lawyer should evaluate their ability to appear in court with clients when deciding whether to accept an appointment in a case. Lawyers should not overly rely on other lawyers to cover their appearances.

When possible, lawyers should appear in person or in the same manner as their clients.

## STANDARD 4.1 – THEORY OF THE CASE

**A. The child-client's lawyer must actively represent the child-client in the preparation of a case as well as at hearings.**

**B. The child-client's lawyer must develop a theory and strategy of the case to implement at hearings, including the development of factual and legal issues.**

Commentary:

Regardless of any alignment of position among the child-client and other parties, the child-client's lawyer should develop the lawyer's own theory and strategy of the case and ensure that the child-client has an independent voice in the proceeding.

The child-client's lawyer should not be merely a fact finder, but rather should zealously advocate a position on behalf of the child-client. Although the child-client's position may overlap with the position of one or both parents, third-party caretakers, or the agency, the child-client's lawyer should be prepared to present the child-client's position independently and to participate fully in any proceedings.

When consistent with the child-client's interest, the child-client's lawyer should take every appropriate step to expedite the proceedings.

The child-client's lawyer should communicate with lawyers for the other parties, CASA, the caseworker, foster parents, and service providers to learn about the child-client's progress and the child's views of the case, as appropriate.

## STANDARD 4.2 – OUT OF COURT ADVOCACY

**A. The child-client's lawyer must advocate for the child-client both in and out of court.**

**B. The child-client's lawyer must engage in case planning and advocate for a case plan and social services that will help achieve the child-client's goals in the case.**

**C. If the child-client's goals include a continued relationship with the parent, the child-client's lawyer should advocate strongly for frequent visitation in a family-friendly setting.**

Commentary:

The child-client's lawyer should advocate for an effective visiting plan consistent with the child-client's wishes. Courts and the agency may need to be encouraged to develop visitation plans that best fit the needs of the individual family.

When the child-client desires visits and when necessary, the child-client's lawyer should seek court orders to compel the child welfare agency to provide appropriate visitation for the child-client, consistent with the child-client's wishes. The child-client's lawyer may also need to take action to enforce previously entered orders.

A child-client's lawyer who plans to attend meetings about the case should be aware that other represented parties may be present without their lawyers and should take necessary steps to comply with the Rules of Professional Conduct. A child-client's lawyer who does not plan to attend meetings about the case should be aware that other represented parties will attend with their lawyers at the meeting and thus should take steps to protect the client's interests.

A child-client's lawyer must be mindful that meeting with their child-client may involve interacting with a represented party, usually a parent. When the child-client is younger, it would be almost impossible not to discuss the subject of the representation with the parent, as the subject matter is the child-client. The child-client's lawyer must have permission if this is the case.

If visiting an older child-client for whom it is possible to limit conversation with the represented party to pleasantries and a request to speak privately with the child-client, the child-client's lawyer should, as a professional courtesy, notify the parent's lawyer that they will be making a

visit to the child-client and will speak to the parent only to schedule and facilitate a private conversation with the child-client.

Of course, even in the case of an older child, the child-client's lawyer could seek consent to have additional conversation with the represented party. The child-client's lawyer should be careful not to disclose confidential information or to elicit any information from the parent on the subject of the representation unless consent has been given.

## STANDARD 5 – PRE-PETITION

**A. The child-client's lawyer must counsel the child-client about his or her rights in the investigation stage as well as the realistic possibility of achieving the child-client's goals.**

**B. The child-client's lawyer should discuss available services and help the child-client gain access to those in which they wish to participate.**

Commentary:

If a child-client would likely be eligible for appointed counsel at state expense if the subject of a juvenile court dependency petition and prepetition representation is necessary to preserve and protect the rights of the child-client, the child-client's lawyer may seek approval from the Oregon Public Defense Commission (OPDC) for funding to commence representation prior to court appointment. Contact OPDC for more information.

If the child-client's lawyer agrees to represent the child-client, the goal of representation should depend on the child-client's wishes when the child-client is capable of instructing the lawyer or expressing a preference. Sometimes this may mean avoiding having a petition filed, while other times it may mean filing a petition.

## STANDARD 6 – INVESTIGATION

**A. The child-client's lawyer must conduct a thorough, continuing, and independent review and investigation of the case, including obtaining information, research, and discovery to prepare the case for trial and hearings.**

**B. The child-client's lawyer should not rely solely on the disclosure information provided by the agency caseworker, the state, or other parties as the investigation of the facts and circumstances underlying the case.**

**C. The child-client's lawyer must review the case record of the child-client and the supplemental confidential file, and the case record of the child-client's siblings when permitted by the juvenile code, Oregon Rules of Professional Conduct, and other confidentiality statutes.**

**D. The child-client's lawyer must review relevant photographs, video or audio tapes, and other evidence. When necessary, the child-client's lawyer should obtain protective orders to keep information confidential once obtained.**

**E. If the child-client is not a U.S. citizen and does not have Lawful Permanent Resident status, the child-client's lawyer must determine or seek an opinion from a lawyer qualified to make a determination if the child-client likely qualifies for Special Immigrant Juvenile status.**

**F. The child-client's lawyer must research and review relevant statutes and case law to identify defenses and legal arguments to support the child-client's case.**

**G. The child-client's lawyer should obtain all necessary documents, including copies of all pleadings and relevant notices filed by other parties, and respond to requests for documents from other parties.**

**H. The child-client's lawyer should have potential witnesses, including adverse witnesses, interviewed by an investigator or other appropriately trained person.**

Commentary:

The child-client's lawyer should research and review relevant statutes and case law to identify defenses and legal arguments to support the child-client's case.

The child-client's lawyer should contact and meet with the parents, legal guardians, or caretakers of the child with permission of their lawyer(s).

The child-client's lawyer should obtain necessary releases of information in order to thoroughly investigate the case.

The child-client's lawyer should interview individuals involved with the child-client and the parent.

The child-client's lawyer should determine whether obtaining independent evaluations or assessments of the child-client is needed for the investigation of the case.

The child-client's lawyer should attend treatment, placement, and administrative hearings involving the child-client and parent as needed.

The child-client's lawyer should work with a team that includes investigators and social workers to prepare the child-client's case. If necessary, the child-client's lawyer should petition the OPDC for funds.

The child-client's lawyer should ask for and review the agency case file as early during the course of representation as possible and at regular intervals throughout the case. After

reviewing the agency file, the child-client's lawyer should determine if any records or case notes of any social worker or supervisor have not been placed in the file and move to obtain those records as well either through informal or formal discovery.

When appropriate, the child-client's lawyer, or another trained and qualified person, should observe visitations between the parent and the child-client.

It is a good practice to have interviews conducted by an investigator employed by the child-client's lawyer. However, if the child-client's lawyer conducts the interview, a third person such as a member of the child-client's lawyer's office should be present so that the third person can be used at trial to impeach the witness.

## STANDARD 7 – COURT PREPARATION

**A. The child-client's lawyer must develop a case theory and strategy to follow at hearings and negotiations. Once the child-client's lawyer has completed the initial investigation and discovery, including interviews with the child-client, the child-client's lawyer should develop a strategy for representation.**

**B. The child-client's lawyer should timely file all pleadings, motions, objections, and briefs, and research applicable legal issues and advance legal arguments when appropriate.**

**C. The child-client's lawyer must file answers and responses, motions, objections, and discovery requests and responsive pleadings or memoranda that are appropriate for the case. The pleadings and memoranda must be thorough, accurate, and timely. The pleadings must be served on all lawyers or unrepresented parties.**

**D. The child-client's lawyer must explain to the child-client, in a developmentally appropriate manner, what is expected to happen before, during, and after each hearing and facilitate the child-client's attendance at hearings when doing so is consistent with the child client's goals. When the child-client wishes to attend the proceedings, the child-client's lawyer must request that the agency, as the child's legal custodian, transport the child-client to the hearing.**

**E. The child-client's lawyer must identify, locate, and prepare witnesses, including expert witnesses, consistent with the case theory and strategy for representation.**

**F. In consultation with the child-client, the child-client's lawyer should determine whether to call the child-client to testify. When the child-client will offer testimony or will be called by another party, the child-client's lawyer should prepare the child-client to testify and seek to minimize any harm that testifying might cause to the child-client.**

Commentary:

When a case presents a complicated or new legal issue, the child-client's lawyer should conduct the appropriate research before appearing in court and should consider preparing a memorandum of law to present to the court. The child-client's lawyer should be prepared to distinguish case law that appears unfavorable and to preserve challenges to unfavorable law if the argument is unlikely to prevail at trial level.

The child-client's lawyer should promote and participate in settlement negotiations and mediation to resolve the case quickly.

The child-client's lawyer should not assume that other parties will call any potential witnesses, even if named in that party's witness list. The child-client's lawyer should, when possible, contact potential witnesses to determine if their testimony will be helpful to the child-client's theory of the case and independently secure the attendance of such witnesses at relevant hearings. The child-client's lawyer should set aside time to prepare such witnesses in advance of hearings.

The child-client's lawyer should decide whether to call the child-client as a witness, although the child-client's lawyer is bound by the wishes of a child-client capable of considered judgment. If the child-client does not wish to testify or would be harmed by being forced to testify, the child-client's lawyer should seek a stipulation of the parties not to call the child-client as a witness or file a motion pursuant to ORS 419B.310 to take the testimony of the child-client outside the presence of the parent(s) and other parties.

## STANDARD 8 – HEARINGS

**A. The child-client's lawyer must prepare for and participate in all hearings and other court appearances. That participation must include:**

1. preparing the child-client to testify if called;
2. preparing to call witnesses and offer exhibits to advance the child-client's position;
3. making motions and evidentiary objections consistent with child-client's objectives and trial strategy; and
4. making closing arguments that advocate for findings of fact, conclusions of law, and orders that are consistent with the child-client's objectives.

**A. The child-client's lawyer must be prepared to state the child-client's position at each hearing.**

**B. The child-client's lawyer must be able to effectively present witnesses to advance the child-client's position. Witnesses must be prepared in advance and the child-client's lawyer should know what evidence will be presented through the witnesses. The child-client's lawyer must also be skilled at cross-examining opposing parties' witnesses.**

**C. The child-client's lawyer should be strategic in determining when to request and when to make an opening statement.**

**D. If the court proceeds in the absence of the child-client's lawyer, the lawyer must consider filing a motion to set aside.**

Commentary:

The child-client's lawyer should seek out training in trial skills and watch other lawyers to learn from them. Presenting and cross-examining witnesses are skills with which the child-client's lawyer must be comfortable. In particular, examining or cross-examining a child requires unique skills.

## STANDARD 9 – POST HEARINGS

**A. The child-client's lawyer should take reasonable steps to ensure the child-client and all other parties comply with court orders and should continuously assess whether the case needs to be brought back to court.**

**B. If the child-client is unhappy with an order or judgment, the child-client's lawyer should counsel the child-client about any options to appeal, or, when the order was entered by a referee, request a rehearing pursuant to ORS 419A.150, but should explain that the order is in effect unless a stay or other relief is secured.**

**C. If an appeal is consistent with the child-client's objectives, the child-client's lawyer must timely facilitate the appointment of an appellate lawyer for the child-client.**

Commentary:

At the conclusion of the hearing, the child-client's lawyer should request and obtain a copy of the written order or judgment to ensure it reflects the court's verbal order. If the order or judgment is incorrect, that is, it does not reflect the court's verbal rulings, the child-client's trial lawyer should take whatever steps are necessary to correct it to the extent that the corrections are beneficial to the child-client.

Once the order or judgment is final, the child-client's lawyer should provide the child-client with a copy of the order or judgment, if age appropriate, and should review the order or judgment with the child-client to ensure the child-client understands it and the obligations of all of the parties under the order or judgment.

If an order or judgment adversely affects the child-client, the child-client's lawyer should advise the client of the remedies, which include moving to modify or set aside the order or judgment.

The child's court-appointed lawyer should work with the appellate lawyer and identify for the appellate lawyer: the parties to the case (for example whether there are any interveners), appropriate issues for appeal, and promptly respond to all requests for additional information or documents necessary for the appellate lawyer to prosecute the appeal. The lawyer should promptly comply with the court's order to return exhibits necessary for appeal.

The child-client's lawyer should monitor the progress of an appeal taken by another party to the juvenile case and continuously evaluate whether the child-client should participate in the appeal.

# STANDARDS FOR REPRESENTATION OF PARENTS AND GUARDIANS

Lawyers in Dependency matters may be called on to represent different types of parties who have taken a parental role over a child who is the subject of the petition. Generally, those persons fall into two categories: Parents (persons whose rights to a child are rooted in parentage) and Guardians (persons whose rights to a child are granted by a guardianship order). For the purposes of these standards, Indian Custodians under ORS 419B.603(6) and putative fathers who are named in a petition are considered Parents.

Standards 1.1 and 1.2 are split between Parents and Guardians. In all other standards, when the standard refers to a parent, it also refers to a guardian.

## STANDARD 1.1A – ROLE OF THE PARENT LAWYER

**A. The parent-client's lawyer must maintain a normal lawyer-client relationship with the parent client, including advocating for the parent client's goals and empowering the parent client to direct the representation and make informed decisions.**

**B. The parent-client's lawyer must be aware of the parent client's mental health status and be prepared to assess whether the parent client can assist with the case.**

**C. When it is not reasonably possible to maintain a normal lawyer-client relationship generally or with regard to a particular issue, the parent-client's lawyer must conduct a thorough investigation and then determine what course of action is most consistent with protecting the parent client's interests in the particular situation and represent the parent client in accordance with that determination.**

**D. If the court has appointed a Guardian Ad Litem over a parent client due to the parent client's lack of competence, the parent-client's lawyer is required to follow directions provided by the guardian ad litem but must continually assess whether the parent client's competence has changed. If appropriate, the parent-client's lawyer must request removal of the guardian ad litem.**

Commentary:

The parent-client's lawyer should explain that the lawyer's job is to represent the parent client's interests and regularly inquire as to the parent client's goals, including ultimate case goals and interim goals. The lawyer should explain all legal aspects of the case including the advantages and disadvantages of different options. At the same time, the lawyer should be careful not to usurp the parent client's authority to decide the case goals.

When representing a parent client with diminished capacity because of age, mental impairment, or for some other reason, the parent-client's lawyer should, as far as reasonably possible, maintain a normal lawyer-client relationship with the parent client. A parent client may have the capacity to make some decisions but not others.

When it is not reasonably possible to maintain a normal lawyer-client relationship, the determination of what course of action to take should be based on objective facts and information and not the lawyer's personal philosophy or opinion.

## STANDARD 1.1B – ROLE OF THE LAWYER FOR GUARDIANS

**A. The guardian-client's lawyer must maintain a normal lawyer-client relationship with the guardian client, including advocating for the guardian client's goals and empowering the guardian client to direct the representation and make informed decisions.**

**B. The guardian-client's lawyer must be aware of the guardian client's mental health status and be prepared to assess whether the guardian client can assist with the case.**

**C. When it is not reasonably possible to maintain a normal lawyer-client relationship generally or with regard to a particular issue, the guardian-client's lawyer must conduct a thorough investigation and then determine what course of action is most consistent with protecting the guardian client's interests in the particular situation and represent the guardian client in accordance with that determination.**

Commentary:

The guardian-client's lawyer should explain that the lawyer's job is to represent the guardian client's interests and regularly inquire as to the guardian client's goals, including ultimate case goals and interim goals. The lawyer should explain all legal aspects of the case including the advantages and disadvantages of different options. At the same time, the lawyer should be careful not to usurp the guardian client's authority to decide the case goals.

When representing a guardian client with diminished capacity because of age, mental impairment, or for some other reason, the guardian-client's lawyer should, as far as reasonably possible, maintain a normal lawyer-client relationship with the guardian client. A guardian client may have the capacity to make some decisions but not others.

When it is not reasonably possible to maintain a normal lawyer-client relationship, the determination of what course of action to take should be based on objective facts and information and not the lawyer's personal philosophy or opinion.

## STANDARD 1.2A – RELATIONSHIP WITH THE PARENT-CLIENT

**A. The parent-client's lawyer must clearly explain the allegations made against the parent client; what is likely to happen before, during, and after trial and each hearing; and ascertain the parent client's position on the allegations.**

**B. The parent-client's lawyer must explain what steps the parent client can take to increase the likelihood of achieving the objectives of the representation.**

**C. The parent-client's lawyer must advise the parent client of the parent's rights, the lawyer's role and responsibilities, the role of each participant in the system, and alternatives and options available to the parent client.**

**D. The parent-client's lawyer must advise the parent client of the relevant state and federal statutory timelines and help the parent client develop a system to remember important projected deadlines and important dates.**

**E. The parent-client's lawyer must take diligent steps to locate and communicate with a missing parent client and decide representation strategies based on that communication.**

**F. The parent-client's lawyer must inform the parent client that if the parent client fails to appear for any hearing on a petition to establish jurisdiction or terminate parental rights to which the parent client has been summoned or ordered to appear, the court has no discretion to allow the lawyer to appear on the merits of the case on the parent client's behalf and that the court may allow the other parties to proceed in the parent client's absence.**

**G. The parent-client's lawyer must show respect and act professionally with the parent client.**

Commentary:

The parent-client's lawyer should provide or ensure that the parent client is provided with copies of all petitions, court orders, service plans, and other relevant case documents, including reports regarding the child except when expressly prohibited by law, rule, or court order. The lawyer has an ethical obligation to share all information in the file with a client. A lawyer must consider this ethical obligation in determining how to share information with a client.

If the parent client has difficulty reading, the parent-client's lawyer should read the documents to the parent client. In all cases, the lawyer should be available to discuss and explain the documents to the parent client.

The parent-client's lawyer and the parent client should identify barriers to the parent client engaging in services such as employment, transportation, financial issues, inability to read, and

language differences. The lawyer should work with the parent client, caseworker, and service provider to remove those barriers and advocate with the child welfare agency and court for appropriate accommodations.

The parent-client's lawyer should inform the parent client that if the parent does not appear at a hearing to which the parent has not been summoned or ordered to appear, the lawyer will exercise his or her best judgment about whether to advocate for the parent client's last known position, remain silent, and/or request a continuance.

If a parent fails to attend a hearing, the parent-client's lawyer may appear to explain the parent client's failure to appear and move to continue the hearing. If the parent client was not summoned or ordered to appear, the parent-client's lawyer should assess whether the parent client's interests are better served by advocating for the parent client's last clearly articulated position or declining to state a position in further court proceedings, and act accordingly.

After a prolonged period without contact with the parent client, the parent-client's lawyer should consider withdrawing from representation.

The parent-client's lawyer should learn about and understand the parent client's background, determine how that has an effect on the parent-client's case, and always show the parent client respect. The lawyer should understand how cultural, linguistic, and socioeconomic differences impact interaction with the parent client, and should interpret the parent client's words and actions accordingly.

## STANDARD 1.2B – RELATIONSHIP WITH THE GUARDIAN-CLIENT

**A. If the petition alleges deficits against the guardian, the guardian-client's lawyer must clearly explain the allegations made against the guardian client.**

**B. The guardian-client's lawyer must explain to the guardian client what is likely to happen before, during, and after trial and each hearing; and ascertain the guardian client's position on the issues raised in the petition.**

**C. The guardian-client's lawyer must explain what steps the guardian client can take to increase the likelihood of achieving the objectives of the representation.**

**D. The guardian-client's lawyer must advise the guardian client of the guardian's rights, the lawyer's role and responsibilities, the role of each participant in the system, and alternatives and options available to the guardian client.**

**E. The guardian-client's lawyer must advise the guardian client of the relevant state and federal statutory timelines and help the guardian client develop a system to remember important projected deadlines and important dates.**

**F. The parent-client's lawyer must take diligent steps to locate and communicate with a missing parent client and decide representation strategies based on that communication.**

**G. The guardian-client's lawyer must inform the guardian client that if the guardian client fails to appear for any hearing on a petition to establish jurisdiction to which the guardian client has been summoned or ordered to appear, the court has no discretion to allow the lawyer to appear on the merits of the case on the guardian client's behalf and that the court may allow the other parties to proceed in the guardian client's absence.**

**H. The guardian-client's lawyer must show respect and act professionally with the guardian client.**

Commentary:

The guardian-client's lawyer should provide or ensure that the guardian client is provided with copies of all petitions, court orders, service plans, and other relevant case documents, including reports regarding the child except when expressly prohibited by law, rule, or court order. The lawyer has an ethical obligation to share all information in the file with a client. A lawyer must consider this ethical obligation in determining how to share information with a client.

If the guardian client has difficulty reading, the guardian-client's lawyer should read the documents to the guardian client. In all cases, the lawyer should be available to discuss and explain the documents to the guardian client.

The guardian-client's lawyer and the guardian client should identify barriers to the guardian client engaging in services such as employment, transportation, financial issues, inability to read, and language differences. The lawyer should work with the guardian client, caseworker, and service provider to remove those barriers and advocate with the child welfare agency and court for appropriate accommodations.

The guardian-client's lawyer should inform the guardian client that if the guardian does not appear at a hearing to which the guardian has not been summoned or ordered to appear, the lawyer will exercise his or her best judgment about whether to advocate for the guardian client's last known position, remain silent, and/or request a continuance.

If a guardian fails to attend a hearing, the guardian-client's lawyer may appear to explain the guardian client's failure to appear and move to continue the hearing. If the guardian client was not summoned or ordered to appear, the guardian-client's lawyer should assess whether the guardian client's interests are better served by advocating for the guardian client's last clearly articulated position or declining to state a position in further court proceedings, and act accordingly.

After a prolonged period without contact with the guardian client, the guardian-client's lawyer should consider withdrawing from representation.

The guardian-client's lawyer should learn about and understand the guardian client's background, determine how that has an effect on the guardian-client's case, and always show the guardian client respect. The lawyer should understand how cultural, linguistic, and socioeconomic differences impact interaction with the guardian client, and should interpret the guardian client's words and actions accordingly.

## STANDARD 2.1 – COMMUNICATION

**A. The parent-client's lawyer must make reasonable efforts to make contact in writing, electronically, or in person within 3 business days.**

**B. During the first meeting with the parent client, the parent-client's lawyer must explain the lawyer's role, provide the parent client with contact information in writing, and establish an effective system for the parent client to communicate with the lawyer.**

**C. The parent-client's lawyer must ensure that a qualified interpreter is involved when the lawyer and parent client are not fluent in the same language and are engaged in substantive legal discussions.**

**D. The parent-client's lawyer must communicate with the parent's criminal defense lawyer about issues related to self-incrimination and concerns about delaying the dependency case to strengthen the criminal case or vice versa.**

Commentary:

Subsequent contact should take into consideration the preferred method of contact for the client.

After the first meeting, the parent-client's lawyer should have contact with the parent client before court hearings and Citizen Review Board (CRB) reviews, in response to contact by the parent client, when a significant change of circumstances must be discussed with the parent client, or when the lawyer is apprised of emergencies or significant events affecting the child.

The parent-client's lawyer should be available for in-person meetings or telephone calls to answer the parent client's questions and address the parent client's concerns. The lawyer and the parent client should work together to identify and review short- and long-term goals, particularly as circumstances change during the case.

The parent-client's lawyer should use a qualified interpreter when practical and would advance the aims of representation.

The lawyer should know why the parent client is incarcerated, the length of the parent client's incarceration, and post-incarceration release requirements if applicable, particularly any potential restrictions or limitations on contact with children. If the parent client is incarcerated

as a result of an act against the child or another child in the family, the child welfare agency may seek an order excusing the agency from making reasonable efforts, allowing the case to be fast tracked toward other permanency goals. If the parent client opposes this step, the parent-client's lawyer must oppose such a motion.

The parent-client's lawyer should help the parent client identify potential kinship placements and relatives who can provide care for the child while the parent client is incarcerated. The lawyer should understand the implications of the ASFA for an incarcerated parent client.

If the parent client will be incarcerated for a lengthy period, and the child is not placed with the parent-client's relatives, the parent-client's lawyer should ensure that any potential placement options for the child with a relative of the parent client, or other caretaker proposed by the parent client, are made known to the agency and explored thoroughly.

## STANDARD 2.2 - CONFIDENTIALITY

**A. The parent-client's lawyer must abide by confidentiality laws, as well as ethical obligations, and adhere to both with respect to information obtained from or about the parent client.**

**B. Consistent with the parent client's interests and goals, the lawyer must seek to protect from disclosure confidential information concerning the parent client.**

Commentary:

The parent-client's lawyer should read the provisions of local court rules, state and federal law governing confidentiality of records and documents in juvenile court proceedings, and understand which records and documents are confidential under applicable law. The lawyer must appreciate the existing conflict or tension that exists about what documents and records that the lawyer can give to the parent client and which the lawyer cannot. The lawyer must understand that this is an evolving area of the law and regularly review the statutes and case law in this area.

The parent-client's lawyer should discuss with the parent client the potential consequences of communicating via electronic communication or broadcasting over social media.

## STANDARD 2.3 – CONFLICTS OF INTEREST

**The parent-client's lawyer must follow Oregon RPC 1.7 to 1.13 relating to conflicts of interest and duties to former clients.**

Commentary:

The parent-client's lawyer, or a lawyer associated in practice, should not represent two or more clients who are parties to the same or consolidated juvenile dependency cases or closely related matters unless it is clear there is no conflict of interest between the parties as defined by the Oregon Rules of Professional Conduct.

## STANDARD 3.1 – EDUCATION, TRAINING AND EXPERIENCE OF PARENT-CLIENT'S LAWYER

**A. The parent-client's lawyer must provide competent representation to a parent client. Competent representation requires the legal knowledge, skill, training, experience, thoroughness, and preparation reasonably necessary for the representation. The lawyer must not accept an appointment unless the lawyer is able to provide quality representation and diligent advocacy for the parent client.**

**B. The parent-client's lawyer must be sufficiently familiar with applicable state and federal law affecting dependency proceedings so as to be able to recognize when they are relevant to a case, and the lawyer should be prepared to research the laws when they are applicable.**

**C. The parent-client's lawyer must know how to offer documents, photos, physical objects, electronic records, etc. into evidence.**

**D. Prior to being accepting appointment in a dependency, termination of parental rights, or permanent guardianship case, a lawyer must be certified for that case type by OPDC, either independently or under supervision.**

**E. The parent-client's lawyer must be aware of the unique issues an incarcerated parent client faces in order to provide competent representation to the incarcerated parent client.**

Commentary:

The parent-client's lawyer must read and understand all state laws, policies, and procedures regarding child abuse, neglect, and other related matters, including but not limited to the following:

1. Oregon Revised Statutes (ORS) chapters 419A, 419B and 419C, Oregon Juvenile Code;
2. ORS chapter 418, Child Welfare Services;
3. ORS 418.925–418.945, Refugee Child Act;
4. Oregon Revised Statutes concerning paternity, guardianships, and adoption;
5. ORS 417.200–417.260, Interstate Compact on Placement of Children, and Oregon Administrative Rules;

6. ORS 109.701–109.990, Uniform Child Custody Jurisdiction and Enforcement Act, and Oregon Administrative Rules;
7. The basic structure and functioning of the Department of Human Services and the juvenile court, including court procedures, the functioning of the CRB and CASA programs; and
8. Indian Child Welfare Act 25 USC §§ 1901 -1963; Bureau of Indian Affairs Guidelines; and Oregon Administrative Rules.

Newer lawyers are encouraged to work with mentors for the first three months and, at a minimum, should observe or co-counsel each type of dependency hearing from shelter care through review of permanent plan before accepting appointments.

The parent-client's lawyer should have a working knowledge of placement alternatives, child development, family dynamics, and parental discipline, as well as case and permanency planning, and services for children and families in dependency cases.

The parent-client's lawyer may need to advocate for reasonable/active efforts to be made for the incarcerated parent client and to assist the parent client and the agency caseworker in accessing services. The lawyer should assist the parent client by advocating both with the agency and the jail or correctional facility for these services.

The parent-client's lawyer should counsel the parent client on the importance of maintaining regular contact with the child while incarcerated. The lawyer should assist in developing a plan for communication and visitation by obtaining necessary court orders and working with the caseworker as well as the incarcerated parent's prison counselor.

The parent-client's lawyer should advise the client that phone calls are recorded and that letters and electronic communication are read and monitored. Information gleaned from these communications can be used against the parent client in this case.

If the parent client wants to be transported to court for a hearing, the parent-client's lawyer should move the court for a transport order to do so. If the parent client does not want to be present, or if having the parent client present is not possible, the lawyer should explore what other means are available to have the parent client participate, such as by telephone or video conference. The lawyer should obtain any necessary court order and make the necessary arrangements for the parent client to participate in the hearing.

## STANDARD 3.2 – OBLIGATIONS OF PARENT-CLIENT COUNSEL REGARDING WORKLOAD

**Before accepting appointment as counsel, the parent-client's lawyer has an obligation to ensure that they have sufficient time, resources, knowledge, and experience to offer quality representation to a parent-client in a dependency matter without hampering their representation of existing clients. If it later appears that the lawyer is unable to offer quality representation in the case, the lawyer must move to withdraw.**

Commentary:

A lawyer should have access to sufficient support services and resources to allow for quality representation, including investigation.

A lawyer should evaluate their ability to appear in court with clients when deciding whether to accept an appointment in a case. Lawyers should not overly rely on other lawyers to cover their appearances.

When possible, lawyers should appear in person or in the same manner as their clients.

## STANDARD 4.1 – THEORY OF THE CASE

**A. The parent-client's lawyer should actively represent the parent client in the preparation of a case, as well as at hearings.**

**B. The parent-client's lawyer should develop a theory and strategy of the case to implement at hearings, including the development of factual and legal issues.**

Commentary:

The parent-client's lawyer should, when consistent with the parent client's interest, take every appropriate step to expedite the proceedings.

The parent-client's lawyer should identify family members and professionals who may already be, or who may become, a stable and long-term resource for the family and/or a placement for the child.

The parent-client's lawyer should communicate with lawyers for the other parties, the CASA, the caseworker, and service providers to learn about the parent client's progress and their views of the case, as appropriate.

## STANDARD 4.2 – OUT OF COURT ADVOCACY

**A. The parent-client's lawyer must advocate for the parent client both in and out of court.**

**B. The parent-client's lawyer must engage in case planning and advocate for a case plan and social services that will help achieve the parent client's goals in the case.**

**C. If the parent client's goals include a continued relationship with the child, the parent-client's lawyer should advocate strongly for frequent visitation in a family-friendly setting.**

**D. The parent-client's lawyer or the lawyer's agent may not contact a represented party without the consent of the party's lawyer(s).**

Commentary:

The parent-client's lawyer should counsel the parent client about the advantages and disadvantages of engaging in services before the court orders the client to engage in such services and determine whether the parent client is willing to engage in services. If the parent client is willing to engage in services, the lawyer should advocate for those services.

The parent-client's lawyer should ensure the parent client asks for and receives needed services. The lawyer should not agree to services that are beyond the scope of the case.

Whenever possible, the parent-client's lawyer should use a social worker as part of the parent-client's team to help determine an appropriate case plan, evaluate social services suggested for the parent client, and act as a liaison and advocate for the parent client with the service providers.

When necessary, the parent-client's lawyer should seek court orders to compel the child welfare agency to provide frequent, unsupervised visitation to the parent client. The lawyer may also need to take action to enforce previously entered orders.

The parent-client's lawyer should advocate for an effective visiting plan and counsel the parent client on the importance of regular contact with the child. Courts and the agency may need to be encouraged to develop visitation plans that best fit the needs of the individual family.

A parent-client's lawyer who plans to attend case-planning meetings should be aware that other represented parties may be present without their lawyers and should take necessary steps to comply with the Rules of Professional Conduct. A parent-client's lawyer who does not plan to attend case-planning meetings should be aware that other represented parties will attend with their lawyers at the meeting and should take steps to protect the client's interests.

## STANDARD 5 – PRE-PETITION

**A. The parent-client's lawyer should counsel the parent client about the client's rights in the investigation stage as well as the realistic possibility of achieving the parent client's goals.**

**B. The parent-client's lawyer should discuss available services and help the parent client engage in those in which the parent client wishes to participate.**

Commentary:

If a parent client would likely be eligible for appointed counsel at state expense if served with a juvenile court petition, and prepetition representation is necessary to preserve and protect the rights of the parent client, the parent-client's lawyer may seek approval from the Oregon Public Defense Commission (OPDC) for funding to commence representation prior to court appointment. Contact OPDC for more information.

During the prepetition phase of a dependency case, the parent-client's lawyer has the opportunity to work with the parent client and help the client to fully understand the issues and the parent client's chances of securing desired outcomes. The lawyer also has the chance to encourage the agency to make reasonable efforts to work with the family, rather than filing a petition. During this phase, the lawyer should work intensively to explore all appropriate services, including assistance with legal problems involving housing, criminal case matters, public benefits, services for children, domestic violence, and alternate placement plans that might resolve the case. The lawyer should explore opportunities for substantive case meetings such as case-planning meetings or case reviews and, when appropriate, attend those meetings.

## STANDARD 6 – INVESTIGATION

**A. The parent-client's lawyer must conduct a thorough, continuing, and independent review and investigation of the case, including obtaining information, research, and discovery in order to prepare the case for trial and hearings.**

**B. The parent-client's lawyer must review the case record of the parent client and the supplemental confidential file, and the case record of the child's siblings when permitted by the juvenile code, Oregon Rules of Professional Conduct, and other confidentiality statutes.**

**C. The parent-client's lawyer must review relevant photographs, video or audio recordings, and other evidence. When necessary, the lawyer should obtain protective orders to keep information confidential once obtained.**

**D. The parent-client's lawyer must research and review relevant statutes and case law to identify defenses and legal arguments to support the parent-client's case.**

**E. The parent-client's lawyer must obtain all necessary documents, including copies of all pleadings and relevant notices filed by other parties, and respond to requests for documents from other parties.**

**F. The parent-client's lawyer should have potential witnesses, including adverse witnesses, interviewed by an investigator or other appropriately trained person. If appropriate, witnesses should be subpoenaed.**

Commentary:

The parent-client's lawyer should contact lawyers for the other parties and any CASA for background information.

The parent-client's lawyer should obtain necessary releases of information in order to thoroughly investigate the case.

The parent-client's lawyer should review the internet presence or personas for parties and witnesses.

The parent-client's lawyer should determine whether obtaining independent evaluations or assessments of the parent client is needed for the investigation of the case.

The parent-client's lawyer should attend treatment, placement, and administrative hearings involving the parent client and child as needed.

The parent-client's lawyer should ask for and review the agency case file as early during the course of representation as possible and at regular intervals throughout the case. After reviewing the agency file, the parent-client's lawyer should determine if any records or case notes of any caseworker or supervisor have not been placed in the file and move to obtain those records as well either through informal or formal discovery.

It is a good practice to have interviews conducted by an investigator employed by the parent-client's lawyer. However, if the lawyer conducts the interview, a third person, such as a member of the lawyer's office, should be present so that the third person can be used at trial to impeach the witness.

## STANDARD 7 – COURT PREPARATION

**A. The parent-client's lawyer must develop a case theory and strategy to follow at hearings and negotiations. Once the parent-client's lawyer has completed the initial investigation and discovery, including interviews with the parent client, the lawyer must develop a strategy for representation.**

**B. The parent-client's lawyer should timely file all pleadings, motions, answers, responses, objections, discovery requests, responsive pleadings, appropriate memoranda, and briefs, and research applicable legal issues and advance legal arguments when appropriate. All filings must be thorough, accurate, timely, and appropriately served on all the lawyers or unrepresented parties.**

**C. The parent-client's lawyer must communicate all settlement offers to the parent client and discuss their advantages and disadvantages with the client including the rights that would be waived by a decision to admit to facts sufficient to establish jurisdiction and the impact of timelines established by ORS 419B.470 et. seq.**

**D. It is the parent client's decision whether to enter admissions. The parent-client's lawyer must be willing to try the case and not compromise solely to avoid the hearing.**

**E. The parent-client's lawyer must take reasonable steps to prepare the parent client to testify.**

**F. The parent-client's lawyer must take reasonable steps to prepare witnesses who have been identified and located, including expert witnesses, in addition to evidence and exhibits in formats consistent with local court rules as is consistent with the case theory and strategy for representation.**

Commentary:

When a case presents a complicated or new legal issue, the parent-client's lawyer should conduct the appropriate research before appearing in court and should consider preparing a memorandum of law to present to the court. The parent-client's lawyer should be prepared to distinguish case law that appears unfavorable and to preserve challenges to unfavorable law if the argument is unlikely to prevail at trial level.

With the parent client's permission, and when appropriate, the parent-client's lawyer should engage in settlement negotiations and mediation to resolve the case quickly. The parent-client's lawyer should explain to the parent client the conditions and limits of the settlement and the effect of the settlement, especially when admissions made to allegations could give rise to a criminal charge or finding of aggravated circumstances or extreme conduct. These admissions could affect future actions such as domestic relations proceedings, immigration proceedings, criminal proceedings, or termination-of-parental-rights petitions.

The parent-client's lawyer should discuss and practice the questions that the lawyer will ask the parent client, as well as types of questions the parent client should expect opposing counsel to ask. The lawyer should help the parent client think through the best way to present information, familiarize the parent client with the court setting, and offer guidance on logistical issues regarding getting to court on time and appropriate court attire.

## STANDARD 8 – HEARINGS

**A. The parent-client's lawyer must prepare for and participate in all hearings and other court appearances. That participation must include:**

1. offering available exhibits and testimony if it advances the parent client's position;
2. Making motions and objections consistent with the parent client's objectives and case strategy; and
3. Making closing arguments that advocate for findings of fact, conclusions of law, and orders that are consistent with the parent client's objectives.

**B. The parent-client's lawyer must be prepared to state and explain the parent client's position at each hearing.**

**C. The parent-client's lawyer must be able to competently present witnesses to advance the parent-client's position. The lawyer must also be competent at cross-examining opposing parties' witnesses. The lawyer must know how to offer documents, photos, physical objects, electronic records, etc. into evidence.**

**D. The parent-client's lawyer must be strategic in determining when to request and when to make an opening statement.**

**E. If the court proceeds in the absence of the parent-client's lawyer, the lawyer should consider filing a motion to set aside.**

Commentary:

The parent-client's lawyer should seek out training in trial skills and watch other lawyers to learn from them. Presenting and cross-examining witnesses are skills with which the lawyer must be comfortable. In particular, examining or cross-examining a child requires unique skills.

## STANDARD 9 – POST HEARINGS

**A. The parent-client's lawyer must advise the parent client about complying with court orders. If the parent client is negatively affected by other parties' non-compliance with court orders, the parent-client's lawyer must consider filing for a hearing.**

**B. The parent-client's lawyer must determine a reasonable frequency at which to assess the progress of a case and take any necessary action for each case.**

**C. Once an order or judgment is final, the parent-client's lawyer must offer the parent client and the opportunity to review the judgment or order together, which should include a copy of the judgment or order.**

**D. If a judgment or order is inconsistent with a parent-client's objectives, the lawyer must counsel the parent client about any options to appeal, or, if the order was entered by a referee, request a rehearing pursuant to ORS 419A.150, but must explain that the order is in effect unless a stay or other relief is secured.**

**E. If the parent-client requests to appeal, the parent-client's lawyer must timely submit an appellate referral.**

Commentary:

At the conclusion of a hearing, the parent-client's lawyer should request and obtain a copy of the written order or judgment to ensure it reflects the court's verbal order. If the order or judgment is incorrect, that is, it does not reflect the court's verbal rulings, the parent-client's lawyer should take whatever steps are necessary to correct it to the extent that the corrections are beneficial to the parent client.

When reviewing any judgment or order with a client, the parent-client's lawyer should endeavor to explain the material in multiple ways and discuss whether the client should receive a copy of the judgment or order.

If an order or judgment adversely affects the parent client, the parent-client's lawyer should advise the client of the remedies, which include moving to modify or set aside the order or judgment.

If an appeal is requested, the parent's lawyer should identify for the appellate lawyer: the parties to the case (for example whether there are any interveners), appropriate issues for appeal, and promptly respond to all requests for additional information or documents necessary for the appellate lawyer to prosecute the appeal. The lawyer should promptly comply with the court's order to return exhibits necessary for appeal.

If another party appeals an order or judgment, the parent-client's lawyer should consult with their client and, if needed, submit an appellate referral.

# Psychiatric Security Review Board Attorney Performance Standards (DRAFT)

November 2025

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# Standards for Representation in Psychiatric Security Review Board Cases

## INTRODUCTION:

Oregon Revised Statute 151.216(j) mandates that the Oregon Public Defense Commission (OPDC) "[d]evelop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards, and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards, and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state."

The following standards were developed by OPDC staff with input from a psychiatric security review board (PSRB) provider workgroup. Per OPDC policy, these standards will be reviewed and revised one, two, and five years from adoption. OPDC welcomes ongoing provider input regarding the content and efficacy of these standards.

Each standard sets a baseline for practice of appointed case work and is followed by commentary that supplements the baseline standards. OPDC recognizes that in any given case, some standards and commentary might be inapplicable or even mutually exclusive.

Commentary is particularly challenging as there are many times when the commentary is impractical or even against a client's best interest or desire. OPDC acknowledges that to practice law, exceptions to these baseline rules and their commentary must apply. The commentary provides additional considerations for counsel performing public defense. There are times when items listed in the commentary may be useful or helpful during representation. They are not meant to establish baseline minimum performance standards.

OPDC is grateful to Oregon Public Defense Commission Psychiatric Security Review Board (PSRB) Workgroup for the extensive work OPDC drew upon in the development process.

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## STANDARD 1.1: THE ROLE OF PSRB COUNSEL

**The lawyer for a client in a Psychiatric Security Review Board (PSRB) case should provide quality and zealous representation at all stages of the case. A lawyer should ensure that each client receives competent, conflict-free representation in which the lawyer keeps the client informed about the representation and promptly responds to reasonable requests for information. The lawyer shall be familiar with applicable statutes, caselaw, and Board practices, and should stay aware of changes and developments in the law.**

**Throughout the representation, the lawyer must determine whether the client has sufficient capacity to understand and form a lawyer-client relationship and whether the client is capable of making reasoned judgments and engaging in meaningful communication.**

**For clients with full decision-making capacity, the lawyer must maintain a normal lawyer-client relationship with the client, including taking direction from the client on matters normally within the client's control.**

**For clients with diminished capacity, the lawyer must maintain a normal lawyer-client relationship as far as reasonably possible and take direction from the client as the client's capacity develops. Clients may be competent to make some decisions and not others.**

**Lawyers must advocate at all times for the client's expressed interests. If a client cannot express their own interests the lawyer should act to preserve all the rights of their client.**

Commentary:

1. A lawyer is bound by the client's definition of his or her best interests and should not substitute the lawyer's judgment for that of the client regarding the objectives of the representation except as permitted by the Oregon Rules of Professional Conduct 1.14.

2. A lawyer should provide candid advice to the client regarding the probable success and consequences of pursuing a particular position in the case and give the client the information necessary to make informed decisions to the extent the client is capable. A lawyer should consult with the client regarding the assertion or waiver of any right or position of the client.

3. Lawyers should endeavor to build trust with their clients and, where possible, to offer them comfort and understanding during their commitment.

4. Lawyers should assist the client in planning for the client's potential release as soon as

practicable after case assignment. Preparation should include working with the client to secure suitable housing, clothing, services, mental health care, and access to medications. Lawyers should consider contacting the client's friends and relatives if available.

5. A lawyer should exercise reasonable professional judgment regarding technical and tactical decisions and consult with the client on the strategy to achieve the client's objectives.

## STANDARD 1.2: EDUCATION, TRAINING, AND EXPERIENCE OF PSRB COUNSEL

**A. A lawyer must be familiar with the applicable substantive, procedural, and administrative law (OAR Chapter 859) governing appearances before the Board. A lawyer has a continuing obligation to stay abreast of changes and developments in the law and with changing best practices for providing quality representation in PSRB cases.**

**B. Prior to handling a PSRB matter, a lawyer must have sufficient experience or training to provide quality representation. Prior to accepting assignment in a PSRB case, a lawyer must be certified for PSRB cases by OPDC.**

Commentary:

1. To remain proficient in the law, court rules and practice applicable to PSRB cases, a lawyer should regularly monitor the decisions of Oregon and pertinent Federal appellate courts and the work of the Oregon State Legislature. Lawyers should be particularly aware of decisions and bills that impact the Oregon State Hospital.

2. Lawyers should be knowledgeable about the State Hospital system, the resources available to clients in the system, and the constitutional rights that clients have while in the system. Lawyers should monitor the system for any changes that will impact their clients.
3. A lawyer should be familiar with key agencies, people, and services typically involved in PSRB cases such as the Attorney General's Office, the Oregon State Hospital, hospital staff, county behavioral health entity, private treatment facilities, and programs, along with other services and programs available as dispositional alternatives to commitment and detention.

4. Lawyers should have knowledge of mental health disorders, their presentations, and the state mental health treatment system. Lawyers should be aware of county mental

health options in counties where their clients may be placed.

5. Lawyers should be knowledgeable of HIPPA rules and how they impact the lawyer's practice before the Board.

6. Lawyers should know the members of the PSRB and their backgrounds. Lawyers should be mindful that the primary purpose of the Board is public safety and that there will be times when the lawyer's primary role of advocating for their clients will be at odds with the Board's role.

## STANDARD 1.3: OBLIGATIONS OF PSRB COUNSEL REGARDING WORKLOAD

**Before seeking assignment to act as counsel or accepting assignment, a lawyer has an obligation to ensure that they have sufficient time, resources, knowledge, and experience to offer quality representation to a client in a PSRB case without hampering the representation of the lawyer's existing clients.**

Commentary:

1. A lawyer should have access to sufficient support services and resources to allow for quality representation. This includes investigation according to Standard 3.

2. A lawyer should evaluate their ability to appear with clients when deciding whether to accept an assignment to a case. A lawyer must appear personally for all critical stages of the case.

3. When possible, lawyers should appear in person or in the same manner as their clients. Lawyers should be aware of the options for a client's remote appearance.

## STANDARD 2: CLIENT COMMUNICATION

**A lawyer must contact their client within 7 days of their assignment to the case and attempt to conduct an interview with the client and should thereafter establish a procedure to maintain regular contact with the client in order to explain the process of Board hearings, address the ongoing needs of the client, obtain necessary information from the client, consult with the client about decisions necessary for the representation that clients are competent to make, and respond to requests from the client for information or assistance concerning the case.**

Commentary:

1. Lawyers should maintain contact with their clients throughout their commitment to PSRB jurisdiction.

2. A lawyer should use clear, developmentally appropriate language, and should use an interpreter as required. A lawyer should elicit the client's point of view and encourage the client's participation in their own case to the fullest extent possible.

3. Lawyers should be prepared to discuss the timeline of commitment to PSRB jurisdiction at their initial meeting, including ways that timeline may be reduced or extended.

4. Lawyers should be prepared to discuss collateral issues of commitment to the PSRB with the client, including:
   a. Immigration consequences;
   b. Restriction of the client's rights as a result of commitment;
   c. Impact of commitment on other ongoing court cases;
   d. Issues involving the client's family or contact with family members that may be restricted by the trial court judgment.

5. Prior to all meetings, the lawyer should:
   a. Be familiar with the requirements of PSRB jurisdiction;
   b. Obtain copies of any relevant documents that are available including any initiating document, hospital medical records if available, recommendations and reports made by agencies concerning commitment, and law enforcement reports applicable to the commitment order;
   c. Discuss the client's case with the treating psychiatrist to get a sense of the doctor's intentions in the case;
   d. Prepare releases of information for client to sign to allow the lawyer to seek records on the client's behalf;
   e. Be familiar with the legal procedure the client will encounter and be prepared to discuss the process with the client;
   f. Be familiar with the types of detention that a client may be subject to, the allowable length of the detention, and the process for changing the client's placement.

6. Although there is no right to counsel in a risk review panel, a lawyer should discuss panels with client and provide client with advice on how to achieve the client's desired outcome.

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## STANDARD 3: INVESTIGATION

**A lawyer has a duty to conduct an independent review of the case, regardless of the client's admissions or statements to the lawyer. Where appropriate, the lawyer should engage in a full investigation, which should be conducted as promptly as possible and should include all information, research, and discovery necessary to assess the strengths and weaknesses of the case, to prepare the case for hearing, and to best advise the client. The lawyer should not knowingly use illegal means to obtain evidence or instruct others to do so.**

Commentary:

1. A lawyer should attempt to interview all potential witnesses in a case including the client's treatment team, client's family, and other outside professionals who have worked with the client. Lawyers should obtain all pertinent information in the possession of the State or the Oregon State Hospital. The lawyer should pursue formal and informal discovery with authorities as described in Standard 4.

2. A lawyer should review all medical records related to the client and to the client's treatment and be familiar with the types of treatment that the client is undergoing.

3. A lawyer should be familiar with any court cases involving the client which may impact commitment, placement, or which the client's PSRB case may impact.

4. A lawyer should be familiar with the process for requesting indigent defense funding from the Oregon Public Defense Commission including the process for appeals of the Commission's decisions as needed for constitutional representation.

5. A lawyer should always consider whether to reduce investigation to writing.

6. A lawyer may not intentionally destroy evidence in a case and must comply with all statutes governing discovery to the State.

## STANDARD 4: DISCOVERY

**A lawyer has the duty to pursue formal and informal discovery as soon as possible following assignment to a PSRB case and continue to pursue opportunities for discovery throughout the case. A lawyer has a duty to be aware of all possible sources of formal discovery including the**



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**State and the hospital and to pursue discovery from each source. A lawyer must be familiar with the Oregon Rules of Civil Procedure, all applicable OARs, and other law and case law governing discovery as well as those making sanctions available for discovery violations.**

Commentary:

1. A lawyer's discovery review should include, but is not limited to, the following:
   a. Examinations of the client by the State Hospital;
   b. Police reports for the incident underlying commitment to the PSRB;
   c. Any pertinent filings from the underlying case;
   d. Other psychiatric examinations of the client;
   e. The client's current treatment plan;
   f. Any records of the client's previous treatment.

2. Lawyers should be prepared to file protective orders as needed to secure discovery.

3. A lawyer should file motions seeking to preserve evidence where it is at risk of being destroyed or altered.

4. A lawyer should be familiar with and observe the applicable statutes, rules, and case law governing the obligation of the defense to provide discovery. A lawyer request protective orders or otherwise resist discovery where a basis exists to shield information in the possession of the defense from disclosure.

5. Lawyers should not rely on discovery to provide all information in the case and should not assume that parties are compliant with discovery obligations unless the lawyer has verified the compliance.

## STANDARD 5.1: HEARING PREPARATION

**A hearing before the PSRB is a complex event that requires preparation, knowledge of applicable law and procedure, and skill. A defense lawyer must be prepared to present to the board a compelling case which will advance the client's goals. Lawyers should be prepared to address issues of law and fact but must also be prepared to address the practical issues that the Board may raise. In order fully prepare a lawyer should develop, in consultation with the client and members of the defense team, an overall defense strategy for the hearing.**

Commentary:

1. A lawyer should, in advance of any hearing, secure the attendance of necessary witnesses including using subpoenas if necessary and available.

2. In advance of the hearing lawyers should plan for each stage of the hearing, prepare drafts of questions for likely witnesses, as well as for arguments to the Board.

3. Lawyers should be mindful that members of the PSRB are not always legally trained and may not respond the same way a judge would to legal arguments. Lawyers should tailor their arguments accordingly.

4. A lawyer should ordinarily have the following materials available for use at any hearing:
   a. Relevant documents prepared by the client's doctors or evaluators;
   b. Outlines of questions for all witnesses;
   c. Copies of defense subpoenas, if any;
   d. A list of all exhibits and the witnesses through whom they will be introduced;
   e. Originals and copies of all documentary exhibits;
   f. Copies of all relevant OARs and case law;
   g. Evidence codes or compilations of evidence codes, relevant statutes, copies of relevant case law, and copies of learned treatises that are relevant to the hearing; and
   h. Outline or draft of closing argument.

5. A lawyer should be fully informed as to the law and procedural rules relating to all stages of the hearing process and be familiar with legal and evidentiary issues that can reasonably be anticipated to arise in the hearing. The lawyer should develop strategies for challenging evidence that is not favorable to their client's position.

6. A lawyer should plan with the client the most convenient system for conferring privately throughout hearings. Where necessary, a lawyer should seek an order to have the client available for conferences. A lawyer should, where necessary, secure the services of a competent interpreter for the client during all proceedings.

## STANDARD 5.2: PRE-HEARING MOTIONS

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**A lawyer should research, prepare, file, and argue appropriate pre-hearing motions whenever there is a reason to believe that they would benefit their client. A lawyer must be knowledgeable of all motion and notice deadlines that may apply to their case. Lawyers may not miss filing deadlines.**

Commentary:

1. The decision to file a particular pre-hearing motion or notice should be made by the lawyer after thorough investigation, discussion with their client, and after considering the applicable law in light of the circumstances of the case.

2. Lawyers should consider filing motions in order to preserve issues for appellate review and to preserve future litigation which might benefit their client.

3. Among the issues the lawyer should consider prior to filing pre-hearing motions are:
   a. The impact the motion will have on the evidence available at hearings before the Board.
   b. The possibility that the motion will delay or expedite the client's next hearing or stated goals.

## STANDARD 5.3: INITIAL HEARING

**A lawyer should begin preparing for the initial hearing at the time of assignment. Lawyers should examine all reports available from trial counsel, OSH, and any community resources, and should meet with their client well in advance of the hearing to advise the client, explain the hearing process, and begin crafting a strategy for the initial hearing.**

Commentary:

1. Lawyers should work to help the client understand the process of being at OSH, their treatment paths, and what to expect during their initial hearing.

2. Lawyers should understand the time limits imposed by the PSRB for questioning and should adhere to those limits.

3. Lawyers should anticipate the DOJ calling the client's treating doctor from OSH or, if client is in community placement, their case manager. Lawyers should be prepared to cross examine all DOJ witnesses to advance their client's case.

4. Lawyers should review DOJ's proposed exhibits as soon as they are provided prior to the

hearing.

5. Lawyers should work with their client to help the client decide if they want to testify at the initial hearing.

6. Lawyers should be prepared to deliver a compelling summation during closing arguments which provides the Board with reasons to find in their client's favor.

7. Throughout the hearing, a lawyer should endeavor to establish a proper record for appellate review. As part of this effort, a lawyer should request, whenever necessary, that all hearing proceedings be recorded.

8. Lawyers should review the written decision of the Board for errors and file necessary motions to correct those errors.

## STANDARD 5.4: REPRESENTATION AFTER THE INITIAL HEARING

**Lawyers are obligated to continue representation of their client beyond the initial hearing and until the client is discharged by the PSRB. This representation includes being available to answer questions from the client, advising clients about all aspects of their commitment to the PSRB as well as representation at any placement review hearings before the Board. Lawyers should continue to advocate for the client's goals throughout their representation.**

Commentary:

1. Lawyers should continue to keep apprised of their client's treatment and progress with that treatment. This may require ongoing review of records generated by the client's treatment team's monthly meetings.

2. Lawyers should be prepared to file ongoing requests for records as needed.

3. The treatment team will have the greatest impact on the Board's decision regarding the client's placement. As such, lawyers should endeavor to understand and inform the team's views and opinions of their client.

4. Lawyers should advise the client on their ability to demand a review hearing and the

advisability of calling a review hearing. Lawyers should demand a review hearing if the client requests one and a review hearing is legally allowed.

5. Lawyers should be prepared to advocate for client's wishes if there is a request for a change in the client's placement that does not align with the client's wishes.

## STANDARD 5.5: REVIEW HEARINGS

**Lawyers must be prepared to represent their client's interests at any review hearings. If the client's discharge is at issue, lawyers should be prepared to litigate the issue and advocate for the client's desired outcome regarding discharge.**

Commentary:

1. OSH can request a hearing at any time, so lawyers need to continually review and update the client's case to be prepared for a review hearing on potentially short notice in addition to preparing for regular periodic review hearings.

2. Discharge can be at issue in any review hearings and a lawyer should be prepared to argue about discharge at any review hearing.

3. Lawyers should review all records in advance of any review hearing.

## STANDARD 6.1: OBLIGATIONS OF COUNSEL REGARDING APPEALS

**If at any point a lawyer determines that an appeal of a decision of the Board would be in the client's best interest and is legally permissible the lawyer should take the necessary steps to perfect the appeal.**

Commentary:

1. When a client pursues an appeal and another lawyer is handling the appeal, the PSRB lawyer should cooperate in providing information to the appellate lawyer concerning the proceedings below.

2. Lawyers who represent indigent clients should be knowledgeable about the process of requesting an appellate attorney from OPDC for appeals of Board Decisions.

# Civil Commitment Attorney Performance Standards (DRAFT)

November 2025

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# Standards for Representation in Civil Commitment Cases

## INTRODUCTION:

Oregon Revised Statute 151.216(j) mandates that the Oregon Public Defense Commission (OPDC) "[d]evelop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards, and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards, and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state."

The following standards were developed by OPDC staff with input from a civil commitment provider workgroup. Per OPDC policy, these standards will be reviewed and revised one, two, and five years from adoption. OPDC welcomes ongoing provider input regarding the content and efficacy of these standards.

Each standard sets a baseline for practice of appointed defense work and is followed by commentary that supplements the baseline standards. OPDC recognizes that in any given case, some standards and commentary might be inapplicable or even mutually exclusive.

Commentary is particularly challenging as there are many times when the commentary is impractical or even against a client's best interest or desire. OPDC acknowledges that to practice law, exceptions to these baseline rules and their commentary must apply. The commentary provides additional considerations for counsel performing public defense. There are times when items listed in the commentary may be useful or helpful during representation. They are not meant to establish baseline minimum performance standards.

OPDC is grateful to Oregon Public Defense Commission Civil Commitment Standards Workgroup for the extensive work OPDC drew upon in the development process.

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## STANDARD 1.1: THE ROLE OF CIVIL COMMITMENT COUNSEL

**The lawyer for a client in a civil commitment case should provide quality and zealous representation at all stages of the case, advocating at all times for the client's expressed interests according to Oregon Rules of Professional Conduct 1.14. If a client cannot express their own interests the lawyer should act to preserve all of their client's rights.**

Commentary:

1. A lawyer is bound by the client's definition of his or her best interests and should not substitute the lawyer's judgment for that of the client regarding the objectives of the representation except as permitted by ORCP 1.14.

2. A lawyer should provide candid advice to the client regarding the probable success and consequences of pursuing a particular position in the case and give the client the information necessary to make informed decisions. A lawyer should consult with the client regarding the assertion or waiver of any of their client's rights or positions.

3. Lawyers in civil commitment cases should be prepared to navigate the healthcare systems that their clients are in and should be aware of the differences between advocacy in a health care setting and advocacy in a court setting. Lawyers should be familiar with the legal or administrative staff in those hospital systems and should be prepared to communicate with them to resolve barriers to access or information within the healthcare system.

4. A lawyer should exercise reasonable professional judgment regarding technical and tactical decisions and consult with the client on strategy to achieve the client's objectives.

## STANDARD 1.2: EDUCATION, TRAINING, AND EXPERIENCE OF CIVIL COMMITMENT COUNSEL

**A. A lawyer must be familiar with applicable statutes, caselaw, local court practices, and local alternatives to commitment. A lawyer must be aware of the timelines, required notices, methods of obtaining needed information to litigate a civil commitment. A lawyer**

**should be aware of collateral consequences that may impact a client as a result of civil commitments. A lawyer has a continuing obligation to stay abreast of changes and developments in the law and with changing best practices for providing quality representation in civil commitment cases.**

**B. Prior to handling a civil commitment matter, a lawyer must have sufficient experience or training to provide quality representation. Prior to accepting appointment in a civil commitment case, a lawyer must be certified for civil commitments by OPDC.**

Commentary:

1. To remain proficient in the law, court rules, and practice applicable to civil commitment cases, a lawyer should regularly monitor the decisions of Oregon and pertinent Federal appellate courts related to civil commitment cases. Lawyers should also monitor bills before the Oregon State Legislature which may impact civil commitment practices.

2. Lawyers should have knowledge of mental health disorders, their presentations, and the mental health treatment systems available to clients. Lawyers should also understand the likely ramifications of various mental health disorders on the client's ability to successfully defend a civil commitment allegation.

3. Lawyers should have knowledge of intellectual disabilities, their presentations, and the available treatments for them. Lawyers should also understand the likely ramifications of various intellectual disabilities on the client's ability to successfully defend a civil commitment allegation.

4. A lawyer should be informed of the practices of the specific judge before whom a client they are representing is appearing.

5. Lawyers should maintain a professional network of other lawyers who routinely practice civil commitment law and should consult with that network as needed. Lawyers should be knowledgeable of how to consult with appellate counsel who routinely handle civil commitment appeals. Lawyers should subscribe to professional listservs, consult available online resources, and attend continuing legal education programs relating to

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the practice of civil commitment law as available.

6. A lawyer practicing civil commitment law should become familiar with the collateral consequences of commitments such as loss of firearm rights, non-expungable, professional licensure, possible ramifications to housing, financial costs of commitment if on private insurance, possible ramifications on parenting, etc. and should stay up to date on any changes to those consequences or ways for clients to minimize their exposure to them.

7. A lawyer providing representation in civil commitment cases should be familiar with key agencies and services typically involved in those cases such as, the district attorney's office, office of county counsel, hospital staff, county behavioral health entities, private treatment facilities, and programs, along with other services and programs available as dispositional alternatives to commitment and detention.

## STANDARD 1.3: OBLIGATIONS OF CIVIL COMMITMENT COUNSEL REGARDING WORKLOAD

**Before seeking appointment to act as counsel or accepting appointment, a lawyer has an obligation to ensure that they have sufficient time, resources, knowledge, and experience to offer quality representation to a client in a civil commitment without hampering their representation of the lawyer's existing clients.**

Commentary:

1. A lawyer should have access to sufficient support services and resources to allow for quality representation. This includes investigation.

2. A lawyer should evaluate their ability to appear in court with clients when deciding whether to accept an appointment in a case. A lawyer must appear personally for all critical stages of the case.

3. When possible, lawyers should appear in person or in the same manner as their clients. Lawyers should be aware of the options for a client's appearance.

## STANDARD 2.1: CLIENT COMMUNICATION

**A lawyer must meet with their client within 24 hours of their appointment and attempt to conduct an in-person interview with the client and should thereafter establish a procedure to maintain regular contact with the client in order to explain the allegations and process of commitment proceedings, address the ongoing needs of the client, obtain necessary information from the client, consult with the client about decisions necessary for the representation, conduct a conflict check at the time of appointment, and respond to requests from the client for information or assistance concerning the case. The lawyer shall promptly respond to reasonable requests for information from the client.**

Commentary:

1. For clients that are detained outside of the lawyer's primary county, the lawyer should consider having counsel in the county where the client is detained appointed.

2. A lawyer with a client detained outside of the lawyer's primary county may seek the assistance of an attorney based in the county where the client is detained to conduct the initial interview with their client and satisfy the 24-hour requirement in this standard.

3. Lawyers should know the process for appointments in counties in which they practice and should consider ways to expedite the appointments to new clients.

4. Lawyers should maintain contact with their clients throughout any diversion period to continue to accomplish the purposes of this Standard.

5. A lawyer should use clear, developmentally appropriate language, and should use an interpreter as required. A lawyer should elicit the client's point of view and encourage the client's participation in their own defense to the fullest extent possible.

6. Prior to all meetings, the lawyer should:
   a. Be familiar with the elements of civil commitment;
   b. Obtain copies of any relevant documents that are available including any initiating

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document, recommendations and reports made by agencies concerning commitment, and law enforcement reports that might be available;

c. Be familiar with the legal procedure the client will encounter and be prepared to discuss the process with the client.

## STANDARD 3.1: INVESTIGATION

**A lawyer has a duty to conduct an independent review of the case, regardless of the client's admissions or statements to the lawyer of facts which might justify commitment. Where appropriate, the lawyer should engage in a full investigation, which should be conducted as promptly as possible and should include all information, research, and discovery necessary to assess the strengths and weaknesses of the case, to prepare the case for hearing, and to best advise the client. A lawyer has a duty to be familiar with the process to request funding for an investigator from OPDC if they do not have access to an in-house investigator, and whenever possible should avoid taking on investigations themselves that could cause them to be a witness in the case. The lawyer should not knowingly use illegal means to obtain evidence or instruct others to do so.**

Commentary:

1. A lawyer should attempt to interview all potential witnesses in a case including the investigator for the state, the state's psychiatrist, client's family, and other outside professionals who have worked with the client, as well as any law enforcement officers involved. Lawyers should obtain all pertinent information in the possession of the prosecution, juvenile authorities, or law enforcement. The lawyer should pursue formal and informal discovery with authorities as described in Standard 4.

2. A lawyer should obtain prior criminal offense, juvenile records, and prior commitment records of the client as well as where available their school, mental health, medical, drug and alcohol treatment records.

3. On or around the third day of the case lawyers should contact the hospital and state's investigator to confirm the hospital's understanding of the basis for the client's continued hold.

4. A lawyer should always consider whether to reduce investigation to writing and should instruct their investigators to only do so after consultation with the lawyer.

5. A lawyer may not intentionally destroy evidence in a case and must comply with all statutes governing discovery to the prosecution.

## STANDARD 4: DISCOVERY

**A lawyer has the duty to pursue formal and informal discovery as soon as possible following appointment and continue to pursue opportunities for discovery throughout the case. A lawyer has a duty to be aware of all possible sources of formal discovery including the State and the hospital. Lawyers should prioritize available sources of discovery and pursue discovery from sources as the case timing allows. Lawyers must be aware of and abide by time and notice restrictions to obtain necessary information. A lawyer must be familiar with the Oregon Rules of Civil Procedure, all applicable statutes, and other rules and case law governing discovery. Lawyers must be aware of and seek medical records from the detaining hospital.**

Commentary:

1. Lawyers should consider seeking appointment orders which include a court's order to the hospital requiring they provide patient records to the lawyer.

2. A lawyer should demand discovery from both the State and the detaining hospital. Discovery should include, but is not limited to, the following:
   a. Client's medical records;
   b. Witness lists along with witness contact information;
   c. Police reports, if any;
   d. Any exhibits they intend to offer at hearing.

3. Lawyers should be familiar with the process of obtaining the investigation report from the county civil commitment investigator and should obtain those reports as soon as possible.

4. A lawyer should be familiar with and observe the applicable statutes, rules and case law governing the obligation of the defense to provide discovery. A lawyer should file motions for protective orders or otherwise resist discovery where a basis exists to shield information in the possession of the defense from disclosure.

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5. Lawyers should not rely on discovery to provide all information in the case and should not assume that the State is compliant with discovery obligations unless the lawyer has verified the compliance.

## STANDARD 5: EXPLORATION OF DIVERSION

**A lawyer has the duty to explore with the client the possibility, advisability, and consequences of entering into a diversion agreement when the option exists in their case. A lawyer has the duty to be familiar with the laws, local practices, and consequences concerning diversion agreements.**

Commentary:

1. A lawyer should explain to the client the procedural options available to the client, the benefits, and consequences of considering a diversion and discuss with the client any rights or timelines that may be impacted by diversion.

2. A lawyer should continue to take steps necessary to preserve the client's rights and advance the client's defenses regardless of the presence of a diversion offer.

3. A lawyer whose client is in diversion should remain available to clients during the period of their diversion if the client has questions or requests legal advice regarding their diversion.

## STANDARD 6.1: HEARING PREPARATION

**A civil commitment hearing is a complex event that requires preparation, knowledge of applicable law and procedure, and skill. A defense lawyer must be prepared on the law and facts related to their client's case, prepared to challenge the State's case, present a defense case, and adapt to the changing nature of a civil commitment hearing. To fully prepare for a hearing a lawyer should develop, in consultation with the client and members of the defense team, an overall defense strategy for the conduct of the hearing.**

Commentary:

1. Lawyers are expected to be fully prepared for all aspects of a civil commitment hearing within the allotted statutory timeframe.

2. Prior to the hearing, a lawyer should consult with their client in order to understand the client's goals related to the hearing such as whether or not to attend the full hearing, whether that attendance will be in person or via virtual means, whether to have someone attend the hearing for support, whether to testify or make a statement at the hearing. Lawyers should advocate for their client's goals.
3. Lawyers should review all available documents to identify potential issues in the State's case. Lawyers should plan their own presentation to address those issues in their client's favor.
4. A lawyer must, in advance of hearing, secure the attendance of necessary witnesses including through the use of subpoenas as needed, and develop outlines or plans for opening, closing, anticipated cross examinations, and direct examinations.
5. A lawyer should ordinarily have the following materials available for use at trial:
    a. Copies of all relevant documents filed in the case;
    b. Relevant documents prepared by investigators and examiners;
    c. An outline or draft of opening statement;
    d. Cross-examination plans for all possible state witnesses;
    e. Copies of any documents needed to impeach the State's witnesses;
    f. Direct examination plans for all prospective defense witnesses;
    g. Copies of defense subpoenas and blank subpoenas to be used as needed during the hearing;
    h. Copies of client's medical records relevant to the proceeding;
    i. A list of all exhibits and the witnesses through whom they will be introduced;
    j. Evidence codes or compilations of evidence codes, relevant statutes, copies of relevant case law, and copies of learned treatises that are relevant to the hearing; and
    k. An outline or draft of closing argument.
6. The lawyer should analyze potential State evidence for admissibility problems and develop strategies for challenging admissibility of evidence. The lawyer should be prepared to address objections to defense evidence or testimony.
7. The lawyer should consider requesting that witnesses be excluded from the trial.
8. A lawyer should plan with the client the most convenient system for conferring privately throughout the trial. Where necessary, a lawyer should seek a court order to have the client available for conferences. A lawyer should, where necessary, secure the services

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of a competent interpreter/translator for the client during all trial proceedings.

9. Lawyers should begin planning for the client's potential release as soon as practicable after appointment. Preparation should include working with the client to secure suitable housing, clothing, services, mental health care, and access to medications. Lawyers should consider contacting the client's friends and relatives if available.

## STANDARD 6.2: PRE-HEARING MOTIONS

**A lawyer should be prepared to file motions in advance of hearing challenging the procedural issues related to their client's case. A lawyer must be knowledgeable of all motion and notice deadlines that may apply to their case. Lawyers should continue to develop motions throughout the hearing. Lawyers may not miss filing deadlines.**

Commentary:

1. The decision to file a particular pretrial motion or notice should be made by the lawyer after thorough investigation, discussion with their client, and after considering the applicable law in light of the circumstances of the case.

2. Among the issues the lawyer should consider addressing in pretrial motions are:
   a. Motions to dismiss;
   b. Motions related to the location of the hearing;
   c. Motions related to the manner in which client appears and may be heard during the hearing;
   d. Motions related to communication with the clients;
   e. Motions related to the manner in which witnesses appear;
   f. Motions related to the form and content of the examination of their client.

## STANDARD 6.2: HEARING

**Lawyers must be prepared at the civil commitment hearing to represent the client's interests, to cross examine State's witnesses as required to advance the client's goals, and to present any defense witnesses necessary to advocate for the client's stated goals. Civil commitment hearings are inherently prone to quick changes, and the lawyer needs to be prepared to shift tactics as needed throughout the hearing. During the hearing, lawyers should be mindful to preserve any issues that may be the subject of an appeal. The lawyer should be prepared to deliver compelling reasons that the court should find in favor of the client.**

Commentary:

1. Lawyers should consider keeping blank copies of subpoenas on hand during hearings in case a witness needs to be subpoenaed during the proceedings.
2. Lawyers should consult with their clients, to the fullest extent possible, to explain any changes that occur during the hearing which may impact the client's position.
3. Lawyers should consider requesting a recess after the state's case concludes or as needed throughout the hearing to assure that the client is able to understand the proceedings to the fullest extent possible and to make any decisions that they are entitled to make during the hearing.
4. Throughout the hearing, a lawyer should endeavor to establish a proper record for appellate review. As part of this effort, a lawyer should request, whenever necessary, that all trial proceedings be recorded.
5. Lawyers should review the judgment for errors and file necessary motions to correct those errors.

## STANDARD 7.1: OBLIGATIONS OF COUNSEL FOLLOWING DISPOSITION

**Following the conclusion of the case a lawyer must advise their client about the possibilities of appellate relief and, at the behest of the client, file the necessary paperwork to begin an appeal or to transfer the case to an appellate lawyer who will then perfect the appeal.**

Commentary:

1. The lawyer's duty to communicate with client, explain the proceedings, and answer their client's questions continues for reasonable amount of time post-disposition.

2. When a client pursues an appeal, a lawyer should cooperate in providing information to the appellate lawyer concerning the proceedings in the trial court.

3. Lawyers who represent indigent clients should be knowledgeable about the process of requesting an appellate attorney for civil commitment appeals.

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**Date:** **December 5, 2025**

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

**Cc:** **Kenneth Sanchagrin, Interim Executive Director**

**From:** **Kim Freeman, CAP Manager**

**Re:** **2025-2026 Key Performance Measures (KPMs)**
**2027-2029 Proposed KPM Changes**

**Nature of Presentation: Action Item**

**Background:**

The Annual Performance Progress Report (APPR) is the primary expression of agency performance measured against legislatively approved Key Performance Measures (KPM).

The Commission has been directed to report in the 2026 session on Key Performance Measures and targets, with a new proposed measurement for the percentage of financially eligible defendants/persons receiving a public defender with a target of 100%.

The agency created an internal workgroup involving agency staff, board members along with using the Strategic Plan and legislative requirements.

The Commission has been working through the existing KPM's to decide which KPM's will remain, which KPM's to remove and new KPM's to be added.

**The agency has six KPM's for 2025- 2026:**

1. **Appellate Case Processing** – Median number of days to file an opening brief

2. **Customer Service** – Percent of customers rating their satisfaction with the agency's customer service, timeliness, accuracy, helpfulness, expertise, and availability of information
3. **Best Practices for Boards and Commissions** – Percentage of total best practice met by the Commission
4. **Trial Level Representation** – During the term of the OPDC contract, percent of attorneys who obtain at least twelve (12) hours per year of continuing legal education credit in the area(s) of law in which they provide public defense representation
5. **Parent Child Representation Program (PRCP)** – Percent of PCRP attorneys who report spending approximately 1/3 of their time meeting with court appointed clients in cases which the attorney represents a parent or child with decision-making capacity
6. **Percent of Financially Eligible Individuals Receiving a Public Defender** – The target is 100%. This is related to the individuals identified as unrepresented by the courts, reflected in the Oregon Judicial Department (OJD) unrepresented dashboard.

**The agency is proposing ten (10) KPMs for 2027-2029.**

1. **Appellate Case Processing –** Median number of days to file an opening brief
2. **Customer Service –** Percent of customers rating their satisfaction with the agency's customer service, timeliness, accuracy, helpfulness, expertise, and availability of information
3. **Best Practices for Boards and Commissions –** Percentage of total best practice met by the Commission
4. **Parent Child Representation Program (PCRP) –** Percent of PCRP attorneys who report spending approximately 1/3 of their time meeting with court appointed clients in cases in which the attorney represents a parent or child with decision-making capacity
5. **Percent of Financially Eligible Individuals Receiving a Public Defender –** The target is 100%. This is related to the individuals identified as unrepresented by the courts, reflected in the Oregon Judicial Department (OJD) unrepresented dashboard.
6. **Hire and Retain State Trial Level Attorneys –** Aims for a twenty percent (20%) increase over current Oregon Trial Division staff each year
7. **Ensure Timely Payments to Providers –** All invoices are reviewed, and payments processes, within forty-five (45) days of receipt
8. **Ensure Timely Processing of Pre-Authorized Expense (PAE) Requests –** Requests will be reviewed within five (5) business days of receipt as staffing allows
9. **Policies, Procedures, Standards, and Guidelines Align with Agency Priorities –** Agency creation of policies, procedures, standards, and guidelines align with the 90-day plans, agency strategic plans, and engagement with Department of Administrative Services (DAS)

10. **Contractors Meet or Exceed Performance Expectations –** Applies to most contracts, and is measured through monthly caseload reporting, other required reports, and adherence to MAC requirements

**Agency Recommendation:**
Agency is proposing a total of ten (10) KPMs. There are currently six (6) existing KPMs and we are requesting the addition of five (5) new KPMs for 2027-2029. The KPM for Trial Level Representation is being removed. The KPMs will be included in a report submitted to the legislature during the 2026 short session. There may be a request for a more formal, detailed presentation. The legislature, along with the Chief Financial Officer (CFO)/Legislative Fiscal Officer (LFO), can provide feedback to the proposed KPMs. The Oregon Public Defense Commission (OPDC) will review the feedback and make any required changes. This version will be presented to the Commission for final approval prior to the submission of the Annual Performance Progress Report (APPR) in September of 2026. The final approved KPMs will be presented to the Joint Committee on Ways and Means in 2027 and incorporated into the agency's final budget report. If approved, the new KPMs would be effective for the 2027-2029 biennium.

**Fiscal Impact:**
None

**Agency Proposed Motion:**
Agency is recommending approval for ten (10) KPMs to be presented to the legislature in the 2026 short session. This is the first phase of the process to request changes to our KPMs.

Oregon Public Defense Commission

**Date:** **December 5, 2025**

**To:** **Jennifer Nash, Chair of OPDC**
**OPDC Commissioners**

**Cc:** **Kenneth Sanchagrin, Executive Director**

**From:** **Lisa Taylor, Government Relations Manager**

**Re:** **Legislative Reports: Comprehensive Report**

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**Nature of Presentation:** Action Item

**Background:** Section 98 of SB 337 (2023) states:

SECTION 98. (1) No later than May 15, 2024, the Oregon Public Defense Commission shall provide a comprehensive report on the Commission's plan for providing public defense services in this state to the interim committees of the Legislative Assembly related to the judiciary, in the manner described in ORS 192.245, that includes at least the following information:

(a) Financial projections for the Commission based on anticipated workload;
(b) A description of the Commission's proposed method for providing public defense services based on anticipated workload;
(c) The establishment of training and supervision requirements for public defense providers;
(d) Steps taken to determine a reasonable hourly rate for appointed counsel who are not employees of the Commission or nonprofit public defense organizations that accounts for overhead expenses; and
(e) Steps taken to improve oversight and enforcement of statewide objective standards for the provision of public defense.

(2) No later than December 1, 2025, and no later than December 1, 2026, the Commission shall provide the interim committees of the Legislative Assembly related to the judiciary with an updated version of the report described in subsection (1) of this section.

(3) Beginning no later than December 1, 2027, and biennially thereafter until December 1, 2035, the Commission shall provide the interim committees of the Legislative Assembly related to the judiciary with an updated version of the report described in subsection (1) of this section.

SECTION 99. Section 98 of this 2023 Act is repealed on January 2, 2036.

The attached report addresses this reporting requirement. Due to the timing of this Commission meeting, the Legislative Policy and Research Office is allowing the report to be submitted on December 5, 2025.

**Agency Proposed Motion:** Agency recommends the Commission approve the Comprehensive Report for submission to the Legislative Policy and Research Office

**Agency Recommendation:** Approve submission of the Comprehensive Report to the Legislative Policy and Research Office.

**Fiscal Impact:** None.

# Comprehensive Public Defense Report

Per Senate Bill 337 (2023

Report III

December 5, 2025

## NATURE OF THE REPORT

Section 98 of SB 337 (2023) states:

SECTION 98. (1) No later than May 15, 2024, the Oregon Public Defense Commission shall provide a comprehensive report on the Commission's plan for providing public defense services in this state to the interim committees of the Legislative Assembly related to the judiciary, in the manner described in ORS 192.245, that includes at least the following information:

(a) Financial projections for the Commission based on anticipated workload;
(b) A description of the Commission's proposed method for providing public defense services based on anticipated workload;
(c) The establishment of training and supervision requirements for public defense providers;
(d) Steps taken to determine a reasonable hourly rate for appointed counsel who are not employees of the Commission or nonprofit public defense organizations that accounts for overhead expenses; and
(e) Steps taken to improve oversight and enforcement of statewide objective standards for the provision of public defense.

(2) No later than December 1, 2025, and no later than December 1, 2026, the Commission shall provide the interim committees of the Legislative Assembly related to the judiciary with an updated version of the report described in subsection (1) of this section.

(3) Beginning no later than December 1, 2027, and biennially thereafter until December 1,2035, the Commission shall provide the interim committees of the Legislative Assembly related to the judiciary with an updated version of the report described in subsection (1) of this section.

SECTION 99. Section 98 of this 2023 Act is repealed on January 2, 2036.

This report is responsive to Section 98. It also serves as the Legislative Report required by ORS 151.216(1)(n). The Oregon Public Defense Commission members approved this report at their December 5, 2025, meeting.

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## EXECUTIVE SUMMARY

This report fulfills the requirements of Senate Bill 337 § 98 (2023) and provides an update to previous comprehensive reports examining the delivery of public defense by the Oregon Public Defense Commission (OPDC). SB 337 § 98 (2023) directs OPDC to provide the Legislature with: (i) financial projections tied to anticipated workload, (ii) the Commission's proposed delivery model for providing public defense services, (iii) training and supervision requirements, (iv) steps taken by the agency to establish a reasonable hourly rate for appointed counsel, and (v) actions taken to strengthen oversight and enforce statewide objective standards for the provision of public defense.

These components are closely intertwined and are addressed throughout the report in the sections that follow. Broadly, this report is organized into four sections. Section One focuses on the delivery of public defense in Oregon, including a discussion of provider types, the Maximum Attorney Caseload (MAC) workload model, the Public Defense Caseload Forecast, and contact information for the 2025-27 biennium. Section Two will focus on qualifications, standards, and performance. Section Three will provide financial projections. Finally, Section Four will discuss OPDC efforts to continue to improve the delivery of public defense services within the state.

**Public Defense Delivery in Oregon.** Oregon delivers public defense through a mix of capacity contracts, hourly panel attorneys, and the state-run Oregon Trial Division (OTD), with most representation provided through capacity contracts by consortia and non-profit organizations operating under the Maximum Attorney Caseload (MAC) workload model. MAC sets standardized expectations for attorney caseloads based on weighted case types and allows attorneys—particularly within consortia—to contract for full- or part-time caseloads. Hourly providers function differently, as they take cases individually and bill for time worked. The role of hourly providers has expanded in response to the unrepresented persons crisis and recent hourly rate increases. OPDC also directly provides most appellate representation through its Appellate Division, which handles a high-volume, specialized caseload across criminal and juvenile matters. Forecasting demand for public defense now falls to the Department of Administrative Services Office of Economic Analysis (DAS OEA), whose projections drive OPDC's, budgeting, staffing, and contracting decisions. Using OEA forecasts and provider data, OPDC contracted for 656.66 MAC statewide for the 2025–27 biennium—more than 80 percent of which is covered by non-profit and consortia providers.

**Performance and Oversight**. OPDC significantly expanded and formalized its oversight framework in 2025 by adopting a comprehensive suite of qualification and performance standards, strengthening contractual compliance requirements, continuing to build out its Compliance, Audit, and Performance (CAP) program, and applying the same expectations to the Oregon Trial Division (OTD). Over the course of the year, the Commission approved new standards for non-attorney staff, attorney qualifications, and attorney performance across criminal, delinquency, and dependency practice areas, ensuring consistency and clarity in expectations statewide. Parallel updates to 2025–27 provider contracts added enforceable requirements tied to professional standards, training, reporting, caseload limits, inspections, and corrective action. The CAP program reinforces these efforts through coordinated compliance monitoring, data analysis, and internal auditing, and is expanding to manage external complaints and support updated agency KPMs. OTD attorneys and staff are held to the same qualification, performance, and MAC caseload standards as contracted providers, with additional employer-level oversight supported by

detailed timekeeping and regional monitoring. Collectively, these structures create a more coherent, transparent, and accountable oversight system for Oregon's public defense delivery model.

**Financial Forecasting**. OPDC's biennial financial forecast will support data-informed budgeting and ensure fiscal alignment with caseload demands.

**Future Work**. OPDC is engaged in long-term planning to transition from a Maximum Attorney Caseload (MAC) system to a workload-based model grounded in time and resource analysis. This shift, with the support of stakeholders and legislators, will enable a more equitable, data-driven allocation of resources statewide.

Together, these efforts reflect a maturing public defense infrastructure undergoing significant modernization as it works toward completing its transition from the Judicial to the Executive Branches of state government. Through enhanced forecasting, clearer standards, expanded oversight mechanisms, and diversified delivery models, OPDC is working to build a more stable, accountable, and equitable system capable of meeting Oregon's growing need for public defense services.

# REPORT OVERVIEW

This report is intended to fulfill the requirements of Senate Bill 337 § 98 (2023) by presenting a comprehensive look at how the Oregon Public Defense Commission (OPDC) delivers public defense services statewide. Specifically, Section 98 directs OPDC to provide the Legislature with the following information: (i) financial projections tied to anticipated workload, (ii) the Commission's proposed delivery model for providing public defense services, (iii) training and supervision requirements, (iv) steps taken by the agency to establish a reasonable hourly rate for appointed counsel, and (v) actions taken to strengthen oversight and enforce statewide objective standards for the provision of public defense.

These components are closely intertwined and are addressed throughout the report in the sections that follow. Broadly, this report is organized into four sections. Section One focuses on the delivery of public defense in Oregon, including a discussion of provider types, the Maximum Attorney Caseload (MAC) workload model, the Public Defense Caseload Forecast, and contact information for the 2025-27 biennium. Section Two will focus on qualifications, standards, and performance. Section Three will provide financial projections. Finally, Section Four will discuss OPDC efforts to continue to improve the delivery of public defense services within the state.

# PUBLIC DEFENSE IN OREGON

## SYSTEM STRUCTURE AND PROVIDER TYPES

### TRIAL LEVEL REPRESENTATION

Public defense in Oregon is organized through three main channels: capacity contracts with external providers, hourly contracts with outside lawyers, and the Oregon Trial Division (OTD). Capacity contract providers are organizations that have a contract with OPDC to provide public defense using the MAC model. They include non-profits, consortia, and individuals or law firms. Non-profit providers are organizations that employ full-time public defenders in a not-for-profit law firm who do not take cases outside of their OPDC contract. Consortia providers, in contrast, are private attorneys or law firms that contract with OPDC as a group to provide public defense services. Some consortia attorneys take cases from OPDC on a full-time basis, although most consortia members also retain their separate identities and may engage in non-court-appointed legal representation in addition to their work with the state. Individuals/law firms differ from consortia only in that they do not band together to provide public defense services. Table 1 provides a breakdown of the percentage of effort, as measured by MAC, that

**Table 1. Percentage of Statewide MAC by Provider Type†**

| Provider Type | Statewide MAC % |
|---|---|
| Non-Profit | 34.6% |
| Consortia | 47.2% |
| Law Firms/Ind. | 15.6% |
| OPDC Trial Div. | 2.6% |

† Calculated using provider contracted MAC as of 1 October 2025 (subject to change).

each provider type is responsible for in Oregon as of the beginning of the 2025-27 contract period.[1] Although these percentages will vary throughout the contract cycle, they are included to provide a general guidepost as to the relative size of each of these provider types.

As shown in Table 1, among contract providers, consortia account for almost half of statewide capacity, followed by non-profit providers, who account for over one-third. Law firms and individuals are responsible for nearly 16 percent of statewide coverage. The smallest share, however, is covered by the recently created OPDC Oregon Trial Division (OTD), which was formed in December 2023 following the passage of SB 337 and consists of full-time public defenders employed by the state who operate out of three regions, with offices located in the Portland metropolitan area, Salem, and Medford.

**Table 2. Maximum Attorney Caseloads and Case Weight**

| Case Type | Annual MAC | Case Weight |
|---|---|---|
| *Adult Criminal* | | |
| Murder | 6 | 50 |
| Jessica's Law | 6 | 50 |
| BM 11 Case | 45 | 6.7 |
| Major Felony | 138 | 2.2 |
| Minor Felony | 165 | 1.8 |
| Misdemeanor | 300 | 1 |
| Probation Vio | 825 | 0.36 |
| Civil Commit | 230 | 1.3 |
| *Juvenile* | | |
| Murder | 6 | 50 |
| Delinquency | 132 | 2.3 |
| Dependency | 69 | 4.3 |
| Probation Vio | 825 | 0.36 |

Each of the preceding provider types operates according to the MAC workload model, which sets caseload expectations for full-time public defenders. Table 2 displays current maximum caseloads, which are tied to a baseline of 300 misdemeanor cases taken on an annual basis. All other caseloads are weighted against this baseline at both the adult and juvenile levels. Using the MAC as a guide, attorneys must divide their total annual MAC across twelve months (this does not apply to murder or Jessica's Law cases, as they cannot be divided like other case types). This equates to, for example, 25 misdemeanors, 13.75 minor felonies, or 3.75 Ballot Measure 11 cases per month. Finally, while MAC contemplates a full-time caseload, providers, particularly consortia members, can elect to contract with OPDC for less than a full-time caseload to reserve a portion of their workload for non-state-funded, non-public defense cases. In these instances, MAC caseloads are pro-rated based on the proportion of a full FTE the attorney elects to contract for with OPDC. A 0.5 FTE consortia member, for instance, has a MAC of 150 misdemeanors or their equivalent as outlined in Table 2.

The last provider type operates differently from the others. Specifically, hourly providers take cases on an ad hoc basis and submit bills for the hours they work on each case. Historically, a small percentage of the public defense workload in Oregon has been performed by hourly attorneys. The percentage of hourly attorneys has increased in recent years, particularly in response to the unrepresented persons crisis and the targeted increases in hourly rates designed to attract lawyers to serve those unrepresented individuals.

[1] This estimate includes attorney MAC that is providing public defense representation for adult, juvenile, and PCRP cases. It excludes supervision, OPDC's reduced caseload program for first year attorneys and SPPE FTE that is non-caseload, investigation, or other non-MAC contracts.

As of October 31, 2025, OPDC has 180 panel attorneys who have signed a contract for the 2025-27 funding cycle. Upon signing a contract, hourly providers have their qualifications verified by OPDC. Panel attorneys bill hourly for their cases, which provides OPDC with data about the amount of effort required to close different types of cases.

Hourly attorney costs are borne by OPDC's Court Mandated Expenses (CME) Division. As of the 2025-27 biennium, hourly attorneys are paid $155 per hour for Tier 1 case types, which include Murder, JLAW, Measure 11, Class A Felonies, Class B Felonies, Appeals, Habeas Corpus, Mandamus, Post Conviction Relief, and all Juvenile cases. For all other case types, hourly attorneys are paid $140 per hour. These rates were established at the July 2025 Commission meeting and represent an inflationary 6.8% increase from prior hourly rates, as designated by OPDC's Legislatively Adopted Budget.[2] These rates, along with those for other non-attorney expenses, can be found on OPDC's website, on the agency's rate sheet.

As required by HB 2614 (2025), OPDC maintains a roster of all attorneys providing public defense services in the state under the commission's supervision, employment, or contractual authority, along with each attorney's qualifications. For the panel of hourly attorneys, each attorney has their own contract and qualifications. OPDC provider contracts include an attachment referred to as the "Roster and Costs," or "ROC," which lists the individual attorneys included under that contract. If an attorney joins or leaves a contracted entity, OPDC requires that the ROC be updated to reflect the addition or subtraction. Finally, the employment relationship the agency has with the Oregon Trial Division ensures the names and qualifications of all OTD attorneys are tracked.

## APPELLATE REPRESENTATION

Unlike trial-level representation, the vast majority of criminal appellate matters are handled by OPDC through its Appellate Division, whose mission is to ensure high-quality representation for individuals entitled to publicly funded legal counsel in appellate matters. The division's attorneys represent individuals on direct appeal in criminal cases, parole matters, juvenile dependency and termination-of-parental-rights cases, and juvenile delinquency cases. It protects not only clients' constitutional and statutory rights but also contributes to the development of Oregon law and the integrity of the broader justice system.

The Appellate Division is organized into two main sections: the Criminal Appellate Section (CAS) and the Juvenile Appellate Section (JAS). Both sections operate under the direction of a chief defender, supported by chief deputies, attorneys, and legal support staff. The two sections of the Appellate Division share the support of a confidential executive assistant. The division's goals are to provide zealous and client-centered representation; stand as the premier Oregon appellate law office; actively participate in the development of legal theories, strategies, and legislation that advance and preserve individual rights within the Oregon criminal and juvenile justice systems; serve as a valued criminal and juvenile law

[2] SB 337 directed OPDC to conduct a survey and economic analysis by July 1, 2025, to establish a formula for the commission to use to calculate an hourly pay rate for the panel of qualified counsel. OPDC contracted with Moss Adams to conduct the survey and economic analysis, which was completed in April 2024. This report was used to develop a policy option package for the 2025 legislative session that would have increased panel attorney hourly rates to $205 and $230 per hour, depending upon the case type. This POP was not approved by the Legislature, and subsequently, the proposed hourly rates were not implemented.

resource for the Oregon State Bar, the Oregon Legislature, and the public; and maintain a public defender office culture that is mission-driven and promotes professional development, achievement, and employee satisfaction.

As of the end of October 2025, the Criminal Appellate Section consisted of 37 attorneys and nine support staff. During the fiscal year ending June 2025, they managed a workload of nearly 1,500 referrals and over 1,300 notices of appeal, ultimately filing more than 750 briefs. Attorneys presented 133 arguments before the Oregon Court of Appeals and 17 before the Oregon Supreme Court. The Juvenile Appellate Section, led by its own chief defender, handled appeals in juvenile dependency, termination of parental rights, and juvenile delinquency cases—matters often involving voluminous records and strict statutory timelines. In addition to the chief defender, the section includes seven attorneys and one paralegal who collectively filed 281 notices of appeal, 107 opening briefs, and 42 reply briefs and presented 36 oral arguments before the Court of Appeals. In total, the Court of Appeals issued 61 opinions in juvenile cases this year, and the Oregon Supreme Court issued one. Juvenile matters require expedited review and exceptional attention to detail, given their impact on children and families.

## PUBLIC DEFENSE FORECAST AND CONTRACTS

Historically, OPDC was solely responsible for forecasting demand for public defense services over a given biennium and ensuring sufficient provider capacity to meet local needs. With the passage of SB 337 (2023), however, responsibility for forecasting shifted to the Department of Administrative Services Office of Economic Analysis (DAS OEA). Under SB 337 (2023), DAS OEA is tasked with issuing a state public defense population forecast, including expected populations of adults and juveniles eligible for appointed counsel. Similar to other forecasts, including those related to Department of Corrections and Oregon Youth Authority populations, DAS OEA is required to release the results of its analyses twice per year on April 15 and October 15. As with other forecasts, the data provided by DAS OEA are statutorily required to be used by the agency in the budget development process.

OPDC signed an interagency agreement with DAS OEA in late 2023 for this work. OPDC, the Criminal Justice Commission (CJC), the Oregon Judicial Department (OJD), and other partners collaborate with DAS OEA to review the forecast methodology, data inputs, and how the forecast informs contracting and budgeting. Although this forecast is still new and undergoing refinements, it will become more precise with each iteration. OEA released its first public defense forecast on April 15, 2024, and its most recent forecast on October 15, 2025. The next forecast will be published on April 15, 2026, and will be used to build OPDC's Agency Request Budget (ARB) as it moves toward the 2027 Legislative Session.

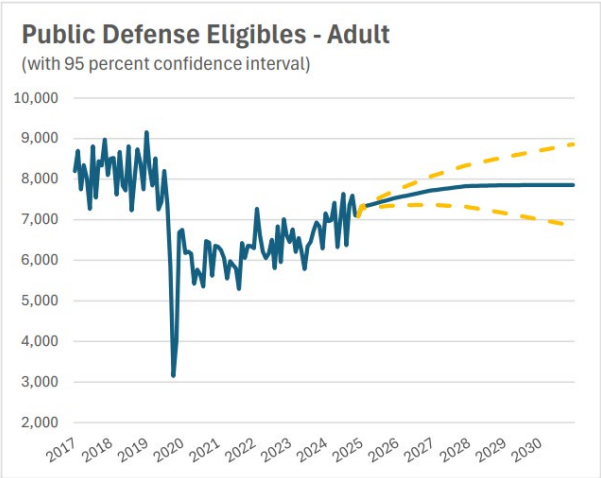


**Figure 1. Eligible Individuals for Public Defense Services[3]**

As shown in Figure 1, according to the most recent forecast, released in October 2025, adult eligibility for public defense services is projected to increase through FY 2031, primarily due to House Bill 4002 (2024), which recriminalized possession of user amounts of controlled substances. Table 3 presents data from the latest eligibility forecast, issued in October 2025, compared with the prior forecast from earlier in the year. Overall, as shown in Table 3, there is a 1.1 percent increase in projected cases compared to the previous forecast, which is largely attributable to increases in misdemeanor (2.5 percent) and probation violation (2.1 percent) cases, as well as a projected decrease in felonies (-2.2 percent).

**Table 3. Reproduction of Public Defense New Eligibles Summary from the October 2025 Public Defense Forecast**

| | | Apr 2025 Fcst | Oct 2025 Fcst | Change | Percent |
|---|---|---|---|---|---|
| Adult | Felony | 46,340 | 45,308 | -1,032 | -2.2% |
| | Murder | 285 | 232 | -53 | -18.6% |
| | Jessica's Law | 222 | 178 | -44 | -19.8% |
| | Measure 11 | 3,948 | 3963 | 15 | 0.4% |
| | Major Felony | 7,967 | 8192 | 225 | 2.8% |
| | Minor Felony | 33,919 | 32,744 | -1,175 | -3.5% |
| | Misdemeanor | 93,243 | 95,597 | 2,354 | 2.5% |
| | Probation Violation | 27,343 | 27,906 | 563 | 2.1% |
| | Treatment Court | 1,866 | 1,850 | -16 | -0.8% |
| | Appellate | 3,565 | 3,516 | -49 | -1.4% |
| | Post-Conviction Relief | 672 | 572 | -100 | -14.9% |
| | Habeas Corpus | 210 | 370 | 160 | 76.0% |
| | Civil Commitment | 5,496 | 5,453 | -43 | -0.8% |
| | **Total** | **178,735** | **180,571** | **1,836** | **1.0%** |
| Juvenile | Dependency† | 17,726 | 18,890 | 1,163 | 6.6% |
| | Delinquency‡ | 6,718 | 6,140 | -578 | -8.6% |
| | Probation Violation | 42,523 | 4,118 | -135 | -3.2% |
| | Treatment Court | 338 | 353 | 15 | 4.4% |
| | Appellate | 683 | 629 | -54 | -7.9% |
| | **Total** | **29,718** | **30,130** | **411** | **1.4%** |
| **Total New Eligible Cases** | | **208,453** | **210,701** | **372** | **1.1%** |

† Includes Parents and Guardians
‡ Includes Measure 11, Murder, and All Others

[3] Figure 1 is part of Chart 5, "Margin of Error" in the 2025 October Oregon Public Defense Caseload Forecast, which can be accessed here.

To determine the number of attorneys needed to cover projected caseloads across the state, OPDC staff utilize the DAS Office of Economic Analysis (OEA) forecast, broken down by county, and convert those figures into estimates of the MAC needed in each jurisdiction. To supplement the forecast, staff also review data reported by providers and incorporate local knowledge to add qualitative context to the quantitative analysis. Using this information, OPDC staff develop jurisdiction-level proposals to guide planning for the 2025–27 contract cycle. Contractors then work with OPDC staff to refine these proposals and submit plans outlining their anticipated staffing levels and resource needs for the biennium. The result of this process is the 2025-27 contracts that went into effect on October 1, 2025.

**Table 4. Contracted MAC by Provider Type (as of 10/31/25)**

| Provider Type | MAC |
|---|---|
| Non-Profit | 227.26 |
| Consortia | 310.18 |
| Law Firms/Ind. | 102.22 |
| OPDC Trial Div. | 17.00 |
| **Total** | **656.66** |

Across provider types, OPDC signed capacity contracts with providers (excluding hourly providers) totaling 639.66 MAC. When the 17 MAC for the Oregon Trial Division is included, the total statewide MAC for adult, juvenile, and PRCP cases is 656.66. The breakdown of MAC by provider types is reported in Table 4 and shows proportions similar to those in Table 1, previously discussed. Overall, the vast majority of capacity in the state is shared by consortia providers and non-profit providers, who together account for over 80 percent of MAC capacity. A more detailed breakdown of MAC included in the 2025-27 contracts is available in Appendix A.

## PERFORMANCE AND OVERSIGHT

### PERFORMANCE STANDARDS

One of OPDC's statutory duties requires it to provide oversight of public defense in Oregon by adopting policies, guidelines, and standards.[4] This work is primarily accomplished through the Commission's adoption of Qualification Standards and Performance Standards. This process involves bringing together provider workgroups and gathering input from commissioners. Below is a timeline of the development of these standards during 2025:

*February 2025: Core Staff, Non-Attorney, Qualification and Performance Standards*
Standards for evaluating the qualifications and performance of office support staff, legal assistants, paralegals, fact investigators, mitigation specialists, case managers, interpreters, information technology staff, provisional licensees in the Supervised Practice Portfolio Examination program, and certified law students.

*July 2025: Attorney Qualification Standards*
Standards for attorneys to qualify as representatives of financially eligible defendants, which take effect on Feb. 1, 2026, aim to ensure that all public defenders have the skills, knowledge, and experience to

[4] ORS 151.216(1)(j) states that the Commission shall: "Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions."

provide competent and effective legal representation for the cases they handle. The standards specify which types of cases attorneys certified by OPDC can take based on their level of experience.

*October 2025: Attorney Performance Standards- Criminal*
Performance standards for criminal defense attorneys are based on the Oregon State Bar's standards and will be used to improve attorney practice throughout the state, assess the validity of complaints made against providers, and ensure clients are receiving effective representation.

*November 2025: Attorney Performance Standards- Delinquency*
Delinquency attorney performance standards, like criminal performance standards, will be used to improve attorney practice throughout the state, assess the validity of complaints against providers, and ensure clients receive effective representation.

December 2025: *Attorney Performance Standards- Dependency; Parent Child Representation Program Expectations*
The Performance Standards for Attorneys in Dependency Cases and the new Parent-Child Representation Program (PCRP) Expectations provide standard expectations and standards for attorneys representing clients in dependency cases and for PCRP attorneys in PCRP counties.

## CONTRACTUAL OVERSIGHT: CONTRACTORS AND PANEL ATTORNEYS

In addition to the Standards and Qualifications discussed above, the agency also provides oversight through its contractual relationships with providers. During the revision process for the 2025-27 provider contracts, additional provisions and language regarding oversight were added to enhance the agency's ability to ensure that contractors provide public defense services within the state in accordance with the requirements of ORS 151.216. The following provisions were included in both contracted provider contracts and the hourly provider contracts for the 2025-27 funding cycle.

- **General Performance Requirements**. Contractors must agree to follow the:
  - Oregon Rules of Professional Conduct;
  - Oregon State Bar's Performance Standards
  - American Bar Association's Ten Principles of a Public Defense Delivery System; and
  - OPDC's Policies and Procedures.

- **Training**.
  - Contracts state that a contractor "shall require sufficient training of all its Attorneys who perform work under this Contract, whether the training is provided in-house or through continuing legal education (CLE) programs accredited by the Oregon State Bar."
  - Contracts also state that a contractor shall ensure that all of its attorneys comply with the CLE requirements of the Oregon State Bar and obtain 12 hours of CLE credit specific to their public defense contract area (criminal or juvenile) during the contract period.

- **Inspection**. Contractors are required to grant OPDC access to the materials necessary to verify compliance.

- **Corrective Action**. The contracts establish the steps each party must take to pursue corrective action in the event of a material breach.

The 2025-2027 provider contracts also include additional provisions tied to oversight:

- **Caseload Standards**. Contractors must adhere to MAC caseload standards.

- **Reporting**. Contractors are required to submit monthly reports to OPDC regarding caseloads, including case numbers, attorney and client information, and appointment information. Contract provisions also establish consequences for noncompliance with reporting requirements.

## COMPLIANCE, AUDIT, AND PERFORMANCE

Additional oversight is provided by OPDC's Compliance, Audit, and Performance (CAP) Program, which was created to provide a central framework within the agency designed to strengthen oversight, accountability, and transparency across the state's public defense system. The structure of CAP aligns with nationally recognized standards, including the American Bar Association's *Ten Principles of a Public Defense Delivery System*. It formalizes a governance model that integrates monitoring, evaluation, and data-driven performance management into agency operations. The CAP program consists of three sections: (1) Compliance, (2) Data and Research, and (3) Internal Audit. Each section has a distinct but interconnected role in promoting high-quality representation and effective agency operations.

**Compliance**. This section, under the Compliance Manager, ensures that providers adhere to their contracts. If contractors do not meet their contractual obligations, program analyst staff will work with them to identify the causes, develop solutions, and document interventions. This process is crucial for ensuring contractor compliance and recording any necessary agency actions. Future compliance work will incorporate the recently adopted performance standards, ensuring that providers meet both qualitative and quantitative expectations.

The agency's Case Assignment Coordinators also report to the Compliance Manager. While these coordinators are currently focused on finding representation for unrepresented persons, the goal, once the crisis has abated, is to utilize them in a quality-control function. They will review case assignments and provider reports to ensure that the reported cases match the assigned cases and reconcile the submitted provider data with the Oregon Judicial Department's data.

**Data and Research**. This section supports CAP functions by collecting and analyzing data. For instance, the Data and Research section is currently working with the Compliance section to develop more effective systems for monitoring provider capacity and to automate certain compliance and case assignment tasks. They also collaborate with other parts of the agency to provide information and demonstrations to stakeholders on how data is utilized and to improve data input.

**Internal Audit**. As of November 1, 2025, the sole auditor within the agency will shift from an internal agency auditor focused on agency risk to an auditor within CAP performing financial and spot-check audits of the agency's payment systems. The auditor, which was moved from the Executive Division back

to CAP through HB 5031, will report to the CAP manager, with a secondary reporting structure directly to the Commissioners and agency Audit Committee.

CAP is also where the agency's Key Performance Measures (KPM) work is conducted, as these measures of agency performance touch on many of the sections within CAP. CAP, in partnership with agency leadership, is currently working with Commissioners to update the agency's KPMs for the 2027-2029 biennium.

The next addition to CAP's responsibilities is the establishment of a formal structure to handle and resolve external complaints. This work is currently in progress and has included updates to reconsideration policies for PAE requests, the establishment of a more formal structure for awarding Extraordinary Case Credit, and the establishment of structural oversight for the granting of co-counsel. Additionally, work is underway on an automation system to route complaints to the appropriate division. The aim is to create a process that allows complaints- whether about a provider, internal agency customer service, or other internal or external issues- to be acknowledged and addressed promptly, with a transparent and efficient escalation pathway.

## OVERSIGHT OF THE OREGON TRIAL DIVISION

The Oregon Trial Division (OTD) comprises state-employed attorneys and support staff who provide trial-level defense services throughout the state. They primarily serve three regions: the Northwest, Central Valley, and Southern regions. The OTD currently has 17 attorneys and 3 Chief Deputy Attorneys who manage the regional offices. As of October 31, the OTD has been assigned to 3,175 cases statewide, 75 percent of which originated from the unrepresented list. OTD has worked with courts and district attorneys to establish early resolution dockets for more efficient case processing and has managed over 600 time-sensitive Betschart cases. Data regarding the Trial Division can be found on the Trial Division Dashboard on OPDC's website.

The OPDC Trial Division is subject to the same qualification and performance standards as contract and panel attorneys. OTD is also held to the same MAC standards as external providers, with each OTD region being treated individually. Unlike contractors or panel attorneys, however, OPDC has significantly greater oversight authority concerning OTD given the formal employer-employee relationship that exists. OTD attorneys also track the time attorneys spend on each case, which provides opportunities for oversight. Currently, 13 different categories are recorded via OPDC's timekeeping efforts.

## FINANCIAL PROJECTIONS

Table 5 provides the biennial financial forecast for OPDC. The forecast column shows the projections if current spending continues for the remainder of the biennium. Also provided is an assessment of divisions with significant variances.

**Table 5. OPDC Biennial Financial Forecast by Agency Division**

| Division | | LAB | Forecast | Variance |
|---|---|---|---|---|
| 1. | Administrative Services Division | $38,380,364 | $43,044,778 | ($4,664,414) |
| 2. | Adult Trial Division | $330,688,123 | $312,055,890 | $18,632,233 |
| 3. | Juvenile Trial Division | $52,810,615 | $55,246,701 | ($2,436,086) |
| 4. | Parent Child Representation Program | $58,422,417 | $56,975,199 | $1,447,218 |
| 5. | Appellate Division | $28,826,029 | $30,723,651 | ($1,897,622) |
| 6. | Compliance, Audit, Performance | $8,645,518 | $9,683,647 | ($1,038,129) |
| 7. | Court Mandated Expenses | $69,942,027 | $60,937,604 | $9,004,423 |
| 8. | Debt Service | $2,392,223 | $2,392,223 | $0 |
| 9. | Executive | $3,356,449 | $3,505,352 | ($148,903) |
| 10. | Preauthorized Expenses | $102,459,670 | $100,126,144 | $2,333,526 |
| 11. | Special Programs | $11,414,014 | $11,414,014 | $0 |
| 12. | Trial Representation | $18,090,808 | $20,552,995 | ($2,462,187) |
| **Total** | | **$725,428,257** | **$706,658,198** | **$18,770,059** |

1. **Administrative Services.** Presently, the Administrative Services Division is projected to be over budget due to (i) unbudgeted Oregon Department of Justice (DOJ) charges for legal services following the shift from internal general counsel to reliance on the DOJ as the agency's counsel on all legal matters; (ii) unbudgeted enterprise IT charges; (iii) a built-in cost-of-living increase impacting staff salaries, and (iv) the temporary coverage of expenditures associated with the Financial Case Management System (FCMS). The final source of the overage will be resolved once FCMS receives bond funding in the spring of 2026, as, at that time, all appropriate FCMS expenditures will be moved from this budget to the FCMS "other fund" budget that will result from the bond sale.

2. **Adult Trial Division**. Projections in this budget category rely on three assumptions: (i) that the DAS OEA Public Defense Caseload Forecast as of April 2025 is accurate; (ii) that OPDC appropriately contracted with providers to meet the DAS OEA forecast; and (iii) that contract providers meet a 90 percent MAC utilization threshold. This division currently forecasts a large amount of unallocated funds based on the three preceding assumptions. Additional needs, however, have been identified and will result in contract adjustments going forward. For instance, caseload impacts to Civil Commitments tied to House Bill 2005 (2025) were not included in the April 2025 forecast, so a portion of the unallocated funds will be shifted to this area. Additional flexibility will also be beneficial as the agency moves through the biennium to meet the changing needs associated with representation. This area continues to be monitored through monthly reassessments and quarterly revisions as warranted by the forecast and provider reported caseload data. As of the release of this report, the agency only has the benefit of one reporting period under the revamped 2025-27 contracts.

3. **Juvenile Trial Division**. Projections in this budget category rely on three assumptions: (i) that the DAS OEA Public Defense Caseload Forecast as of April 2025 is accurate; (ii) that OPDC appropriately contracted with providers to meet the DAS OEA forecast; and (iii) that contract providers meet a 90 percent MAC utilization threshold. The Juvenile Trial Division is currently projecting an overage. The DAS OEA forecast projected a significant reduction in juvenile cases, particularly in a few jurisdictions across the state. Due to the substantial changes in OPDC's 2025-27 contracts, the agency took a more moderate approach to those caseload reductions to ensure that an unrepresented crisis in the juvenile sector does not materialize. Further, OPDC elected to use provider contracts for some attorneys who previously handled hourly cases, with the aim of shifting those cases away from the more expensive hourly program. Finally, federal Title IV-E reimbursements have fallen short of projections, suggesting fewer qualifying expenditures to date. It is important to note, however, that as of the release of this report, the agency only has the benefit of one reporting period under the revamped 2025-27 contracts, as well as only one quarter of data regarding federal Title IV-E reimbursements.

4. **Parent Child Representation Program**. Projections in this budget category rely on three assumptions: (i) that the DAS OEA Public Defense Caseload Forecast as of April 2025 is accurate; (ii) that OPDC appropriately contracted with providers to meet the DAS OEA forecast; and (iii) that contract providers meet a 90 percent MAC utilization threshold. The Parent Child Representation Program projection is currently showing a small amount of unallocated funds, but as stated above, it remains too early in the contracting period to draw concrete conclusions. Also, similar to the Juvenile Trial Division discussion above the first draw of federal Title IV-E funds were lower than expected, indicating fewer qualifying expenditures.

5. **Appellate Division:** The Appellate Division budget projection reports an overage, which is attributable to built-in cost of living increases impacting staff salaries.

6. **Compliance, Audit, and Performance**. The Compliance, Audit, and Performance Division is forecasting an overage due to unprojected Oregon Department of Justice expenditures, as well as increased staff position expenditures due to new staff being hired at a rate that is higher than what is currently budgeted, and a built-in cost-of-living increase impacting staff salaries.

7. **Court Mandated Expenses.** The Court Mandated Expenses budget shows a modest amount of unallocated funding. Currently, invoices from hourly contractor invoices have been growing at a modest pace, but the rate of growth does not appear to be concerning from a budget perspective. The agency is still incurring expenses attributable to the Temporary Hourly Increase Program (THIP), which stopped taking new cases after June 30, 2025. Initially, invoices for THIP expenditures came in at a very high rate during the first few months of the biennium but have since trailed off and appear to be decreasing at a consistent rate. Invoice submission rates are actively being monitored and agency researchers are utilizing DAS OEA forecast data to project the expected wind down of this program.

8. **Debt Service.** Current projects are consistent with the LAB.

9. **Executive Division**. The Executive Division currently projects an overage attributable to unbudgeted attorney general expenditures, and a built-in cost-of-living increase impacting staff salaries.

10. **Preauthorized Expenses**. The Preauthorized Expenses budget currently projects a modest amount of unallocated funding relative to the program's size. Notably, THIP expenditures were initially incurred at a very high rate for the first few months of the biennium. This initial trend has abated, and invoice submissions tied to THIP cases have been decreasing at a consistent rate, which has since figured into budget projections in this area.

11. **Special Programs.** Current projects are consistent with the LAB.

12. **Trial Representation Division**. The Trial Representation Division budget currently projects an overage, primarily due to built-in cost-of-living increases and increased personnel expenses tied to hiring positions at rates higher than budgeted.

## FUTURE WORK

While the Commission's immediate focus remains on resolving the ongoing unrepresented persons crisis and stabilizing service delivery statewide, OPDC is committed to a future transition away from the current MAC model to an approach that more accurately reflects the time and resources required to provide constitutionally effective representation. This transition, however, will take time, as any workload model employed by OPDC has a direct effect on its budget. Due to this relationship, the timing of transitioning to a new workload model must be coordinated with preexisting state budget development timelines, as well as the legislative calendar. As such, the earliest that OPDC could effectuate a transition away from MAC to a new workload approach would be during the 2029 Legislative Session.

For much of its history, OPDC employed a case credit model, where compensation was tied to the number of cases attorneys were assigned during a given contract period. This approach incentivized high caseloads, as volume was the primary way that attorneys could ensure they were adequately compensated for their work. In 2021, OPDC began moving away from the case credit model toward a model based on full-time equivalent employment with caseload limits. These limits, termed the "maximum attorney caseload," or MAC, is the model that is still employed today.

Since its inception, however, the MAC model has come under significant criticism. This criticism has come from multiple angles, whether from public defenders themselves or from court staff, judges, prosecutors, legislators, and budget writers. In response to this criticism, the Commission has been seeking to adopt an alternative workload model since 2019. The MAC model was originally intended as a temporary fix for an unconstitutional pay-per-case system and was not meant to be a long-term solution. However, in the intervening time, the unrepresented crisis developed, and combined with the pandemic, multiple leadership changes, and the transition of the agency from the Judiciary to the Executive branch, a viable and thoroughly socialized workload plan never gained momentum.

Although a shift to a new workload model has yet to occur, prior efforts have resulted in a foundation the agency can build on. A significant amount of data collection and analysis utilizing hourly data from the

Oregon Trial Division and hourly attorneys has provided invaluable information about the time it takes to provide representation in different types of cases. OPDC has also collaborated with the DAS Office of Economic Analysis forecasting team to examine average case lengths and how open workload impacts forecasted caseloads. Finally, national experts have offered feedback and built a framework that could be used to develop future workload models.

<table>
<tr><th colspan="4">2026</th><th colspan="4">2027</th><th colspan="4">2028</th><th colspan="2">2029</th></tr>
<tr><th>Q1</th><th>Q2</th><th>Q3</th><th>Q4</th><th>Q1</th><th>Q2</th><th>Q3</th><th>Q4</th><th>Q1</th><th>Q2</th><th>Q3</th><th>Q4</th><th>Q1</th><th>Q2</th></tr>
<tr><td colspan="3">2027 Budget Development</td><td>Gov Budget</td><td colspan="2">2027 Legislative Session</td><td></td><td colspan="3">2029 Budget Development</td><td>Gov Budget</td><td colspan="2">2029 Legislative Session</td></tr>
<tr><td colspan="2">Initiation Phase and Project Planning</td><td colspan="3">Model Development &<br>Ongoing Stakeholder Engagement</td><td colspan="4">Incorporation of New Model into 2029 Budget Development</td><td></td><td></td><td></td></tr>
</table>

**Figure 2. Tentative Timeline for Transition to a New Workload Model**

Figure 2 provides a high-level timeline for a transition to a new workload model. A robust stakeholder engagement process will be necessary to adequately develop, vet, and refine a workload model that more accurately reflects the time and resources required to provide constitutionally effective representation, while also fitting into a constrained budget environment and not disrupting the functioning of the legal system. Unfortunately, the time necessary to engage in a robust development process does not exist if the goal is to make this transition during the upcoming 2027 Legislative Session. As shown in Figure 3, agency efforts concerning budget development for the 2027 Legislative Session will begin in January of 2026. Due to these time constraints, OPDC plans to lead a stakeholder-driven process beginning in 2026 that will continue through 2027 and will involve a wide range of system partners, including public defense providers, the courts, and district attorneys, as well as other essential stakeholders, including Legislators, the Governor's Office, and individuals who receive public defense services.

As shown in Figure 3, the first stage in this effort will include project initiation and planning, which will entail identifying critical stakeholders, collaborating with stakeholders and partners to define project success criteria, determine which resources within OPDC will be available to oversee and contribute to the process, scope, and set a more detailed project timeline and expected deliverables. The second stage will involve the challenging work necessary to develop a new workload model that accommodates the intricacies and nuances of the Oregon public defense system and the broader criminal justice system. While much of this work will be focused on internal agency policy, research, and budget staff, it is essential that stakeholders be brought along in parallel, so that essential feedback can be gained as the model is developed and refined through an iterative process. The overarching goal of this effort is to have a fully vetted proposed model available for inclusion in the budget development process, which is scheduled to begin in early 2028 for the 2029 Legislative Session.

## APPENDIX A: CONTRACTED PROVIDER DETAILS

The tables on the following pages provide detailed breakdowns of contracted providers for the 2025-27 contracts as of October 1, 2025, by attorney qualification, including non-MAC FTEs, such as investigators and supervision. SPPE participants and attorneys working under the OPDC Reduced Caseload Program are broken down by MAC and FTE, to better show the portion of the 1.0 FTE providing case coverage (MAC) and the portion that is not (FTE).

**Table A1. 2025-27 Adult Trial Division Provider Contract FTE as of 10/1/2025**

| Adult Trial Division | Position Classifications | Contracted FTE |
|---|---|---|
| *Contracted MAC (Standard Provider Contracts)* | | |
| Reduced Caseload Program (Atty FTE caseload) | Attorney 1 | 6.31 |
| SPPE (Atty FTE caseload) | Attorney 1 | 2.93 |
| Misdemeanor | Attorney 1 | 46.18 |
| Minor Felony, Civil Commitment | Attorney 2 | 85.06 |
| Major Felony | Attorney 3 | 162.44 |
| Murder | Attorney 4 | 122.11 |
| | | 425.03 |
| *Statewide Contracted MAC* | | |
| Post Conviction Relief/Habeas Corpus | Attorney 4 | 16.50 |
| Post Conviction Relief appeals | Attorney 4 | 4.42 |
| Civil commitment appeals | Attorney 4 | 2.60 |
| Civil commitment appeals - PSRB, Padilla Referral contract | Attorney 3 | 3.19 |
| PSRB requiring supervision | Attorney 2 | 0.60 |
| Murder | Attorney 4 | 12.82 |
| | | 40.13 |
| **Total Contracted Attorney MAC** | | **465.16** |
| *Reduced Caseload and SPPE FTE* | | |
| Reduced Caseload Program (FTE non-caseload) | Attorney 1 | 3.42 |
| SPPE (FTE non-caseload | Attorney 1 | 12.32 |
| | | 15.74 |
| *Supervision FTE* | | |
| Standard Provider Supervision | Supervisior-2 | 0.26 |
| Standard Provider Supervision | Supervisior-3 | 1.24 |
| Standard Provider Supervision | Supervisior-4 | 12.64 |
| Statewide supervision | Supervisior-4 | 1.2 |
| | | 15.34 |
| *Investigation FTE* | | |
| | Investigators | 55.92 |
| | | 55.92 |
| **Total Contracted Additional FTE** | | **87.00** |
| **TOTAL ADULT TRIAL ATTORNEY MAC AND FTE** | | **552.16** |

**Table A2. 2025-27 Juvenile Trial Division Provider Contract FTE as of 10/1/2025**

| Juvenile Trial Division | Position Classifications | Contracted FTE |
|---|---|---|
| *Contracted MAC (Standard Provider Contracts)* | | |
| SPPE (Atty FTE caseload) | Attorney 1 | 0.05 |
| Delinquency | Attorney 2 | 2.16 |
| Reduced Caseload Program (Atty FTE caseload) | Attorney 3 | 0.30 |
| Dependency, Dependency & Delinquency | Attorney 3 | 84.16 |
| Murder | Attorney 4 | 5.83 |
| | | 92.50 |
| *Statewide Contracted MAC* | | |
| Juvenile Appeals | Attorney 4 | 2.80 |
| Murder | Attorney 4 | 0.66 |
| | | 3.46 |
| **Total Contracted Attorney MAC** | | **95.96** |
| *Reduced Caseload and SPPE FTE* | | |
| Reduced Caseload Program (FTE non-caseload) | Attorney 1 | 0.15 |
| SPPE (FTE non-caseload) | Attorney 3 | 0.25 |
| | | 0.40 |
| *Supervision FTE* | | |
| Standard Provider Supervision | Supervisior-3 | 0.06 |
| Standard Provider Supervision | Supervisior-4 | 1.45 |
| | | 1.51 |
| *Investigation FTE* | | |
| | Investigators | 1.32 |
| | | 1.32 |
| **Total Contracted Additional FTE** | | **3.23** |
| **TOTAL JUVENILE ATTORNEY MAC AND FTE** | | **99.19** |

**Table A3. 2025-27 Parent Child Representation Program Provider Contract FTE as of 10/1/2025**

| Parent Child Representation Program | Position Classifications | Contracted FTE |
|---|---|---|
| *Contracted MAC (Standard Provider Contracts)* | | |
| Juvenile Delinquency | PCRP Attorney | 0 |
| Dependency | PCRP Attorney | 8.93 |
| Delinquency / Dependency /Termination of Parental Rights | PCRP Attorney | 69.62 |
| | | 78.55 |
| **Total Contracted Attorney MAC** | | **78.55** |
| *Reduced Caseload and SPPE FTE* | | |
| SPPE (FTE non-caseload) | PCRP Attorney | 0.37 |
| | | 0.37 |
| *Supervision FTE* | | |
| Standard Provider Supervision | Supervisior-4 | 2.78 |
| | | 2.78 |
| *Case Managers* | | |
| | Case Managers | 26.67 |
| | | 26.27 |
| *Investigation FTE* | | |
| | Investigators | 3.00 |
| | | 3.00 |
| **Total Contracted Additional FTE** | | **32.82** |
| **Total PCRP** | | **111.37** |

Oregon Public Defense Commission

**Date:** **December 5, 2025**

**To:** **Jennifer Nash, Chair of OPDC**
**OPDC Commissioners**

**Cc:** **Kenneth Sanchagrin, Executive Director**

**From:** **Lisa Taylor, Government Relations Manager**

**Re:** **Legislative Reports: Status Report**

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**Nature of Presentation:** Action Item

**Background:** HB 5031 (2025) includes the following budget note:

The Public Defense Services Commission is directed to report to the Interim Joint Committee on Ways and Means in January 2026, and then subsequently to the Legislative Emergency Board in September of 2026, on the unrepresented defendant/persons crisis, including the implementation of the Commission's "12-month plan to address the number of unrepresented Oregonians." The reports shall also include information on Commission efforts to restructure agency operations, as well as intermediate and long-term planning efforts. The reports are also to include information on changes to service delivery models, by provider type, forecasted versus actual caseloads, cost factors, including cost per case, and a biennial financial forecast.

The attached report addresses this budget note. This report is due to the Legislative Fiscal Office on December 8, 2025, and will appear before the Joint Committee on Ways and Means during the January 2026 Legislative Days.

**Agency Proposed Motion:** Agency recommends the Commission approve the Status Report for submission to the Legislative Fiscal Office.

**Agency Recommendation:** Approve submission of the Status Report to the Legislative Fiscal Office.

**Fiscal Impact:** None.

# Interim Status Report

Per House Bill 5031 (2025)

Report I

December 5, 2025

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## NATURE OF THE REPORT

A budget note included with HB 5031 (2025) states:

> The Public Defense Services Commission is directed to report to the Interim Joint Committee on Ways and Means in January 2026, and then subsequently to the Legislative Emergency Board in September of 2026, on the unrepresented defendant/persons crisis, including the implementation of the Commission's "12-month plan to address the number of unrepresented Oregonians." The reports shall also include information on the Commission's efforts to restructure agency operations, as well as its intermediate- and long-term planning efforts. The reports are also to include information on changes to service delivery models, by provider type, forecasted versus actual caseloads, cost factors, including cost per case, and a biennial financial forecast.

This report responds to the above budget note. The Commission approved this report on December 5, 2025.

## EXECUTIVE SUMMARY

This report was created in response to a budget note included in House Bill 5031 (2025), which is the Oregon Public Defense Commission's (OPDC) legislative funding bill for the 2025-2027 biennium. The budget note required OPDC to report on several items, which are summarized below.

**Unrepresented Defendant/Persons Crisis**. During the first half of 2025, the number of unrepresented individuals statewide increased, continuing an upward trend that began the previous year. Starting in May 2025, however, the number of unrepresented persons across the state began to fall. As of October 31, 2025, the state has experienced a 23 percent reduction in the number of unrepresented persons compared to November 1, 2024. Beyond the statewide reduction, improvements have occurred across all six crisis jurisdictions, with Coos County, Marion County, and Jackson County experiencing the most significant reductions. At the same time, progress in Douglas, Multnomah, and Washington Counties has been more modest.

**Implementation of the Commission's 12-month Plan to Address the Number of Unrepresented Oregonians**. OPDC has made progress in implementing all seven interventions identified in its June 2025 12-month plan, which focused on ending the unrepresented crisis in Oregon. These interventions included: (1) allowing experienced attorneys to exceed maximum caseload caps on a voluntary basis; (2) expanding collection and analysis of caseload and workload data; (3) revising contract terms to increase system capacity; (4) facilitating cohort hiring of new attorneys at nonprofit defender offices; (5) investing in public defense law clinics; (6) expanding the use of special resolution dockets; and (7) strategically deploying the Oregon Trial Division to assist in crisis jurisdictions. Although the timing of this report limits the availability of data for several of these interventions, early indicators suggest that they have contributed to more stability within the public defense system and improved access to counsel across much of the state.

**Agency Efforts to Restructure Agency Operations**. OPDC is working toward internal restructuring designed to strengthen governance, accountability, and oversight. The Compliance, Audit, and Performance (CAP) Division is being further refined to serve as the agency's centralized framework for monitoring contract compliance, data integrity, and performance management. The agency has also expanded its policy infrastructure, created over 60 new policies, and established its first Rules Advisory Committee to support administrative rulemaking and stakeholder engagement.

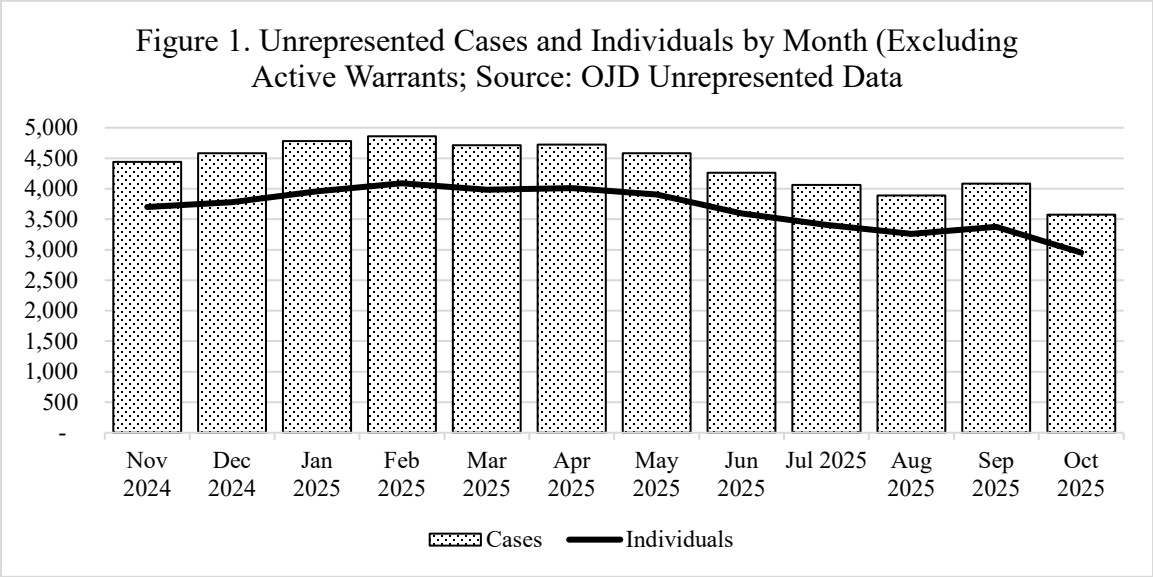
**Intermediate and Long-Term Planning**. OPDC is engaged in long-term planning to transition from a Maximum Attorney Caseload (MAC) system to a workload-based model grounded in time and resource analysis. This shift, with the support of stakeholders and legislators, will enable a more equitable, data-driven allocation of resources statewide.

**Caseload and Financial Forecasting**. OPDC's biennial financial forecast will support data-informed budgeting and ensure fiscal alignment with caseload demands. Additionally, the 2025-27 contract cycle, effective October 1, 2025, is expected to yield overall cost efficiencies through improved resource targeting, expanded capacity, and reduced reliance on hourly contracting.

Through these combined efforts, OPDC is addressing Oregon's constitutional obligations while building a more sustainable, accountable, and data-driven public defense system. Continued legislative partnership will be essential to maintaining this trajectory and ensuring that every eligible Oregonian receives timely and effective legal representation.

## UNREPRESENTED PERSONS NUMBERS AND TRENDS

As of October 31, 2025, there were 2,952 indigent individuals statewide who needed an attorney but could not be provided with one. While the number of unrepresented persons remains unacceptably high, current figures show a significant decrease over the past 12 months. As shown in Figure 1, in November 2024, the number of unrepresented individuals statewide stood at just over 3,700, and at its peak in February of this year, over 4,000 indigent Oregonians were in need of an attorney. As it stands today, the state has experienced a 23 percent reduction over the past 12 months or a 30 percent reduction since the February 2025 peak. Further, it is encouraging that the downward trajectory has been nearly constant since February, except for a brief increase in September 2025, which occurred as OPDC's 2023-25 contracts expired and the new 2025-27 contracts went into effect. The driver of this bump was a lack of capacity, as many public defense providers approached the ends of their 2023-25 contracts, having exhausted their MAC. Based on these promising trends, it is clear that progress is being made statewide. This progress, however, should not obscure the fact that much work remains to fully address the unrepresented crisis.




It is important to note, however, that an analysis of statewide trends conceals important differences and trends at the county level. Further, the geographic concentration of unrepresented individuals in certain areas has led to the informal designation of six jurisdictions as "crisis counties:" Coos, Douglas, Jackson, Marion, Multnomah, and Washington. In some of these jurisdictions, significant positive progress is being made consistent with the overall statewide trends discussed above. In other crisis jurisdictions, however, progress has been slower.

### Crisis County-by-County Analysis

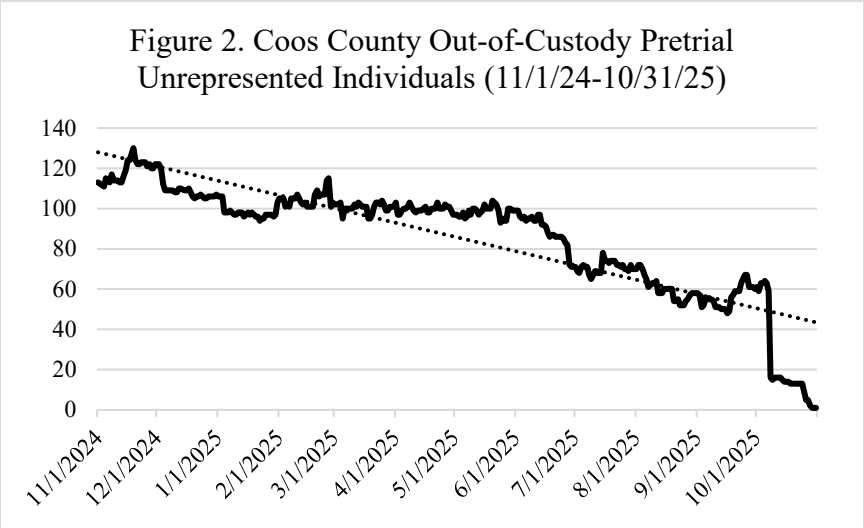
As shown by the overall statewide unrepresented numbers, progress is being made in addressing the unrepresented crisis in Oregon. Similarly, positive momentum can be found in each of the six crisis counties, although the magnitude of the progress varies from jurisdiction to jurisdiction.

Coos County

As shown in Table 1, as of October 31, 2025, Coos County reported the following unrepresented individuals: one out-of-custody, zero in-custody, one probation violation, and one non-criminal. The total number of unrepresented individuals, therefore, stands at three, representing a 98 percent reduction over the past year and placing Coos County in the lower third of jurisdictions by the size of their unrepresented population.

**Table 1. Unrepresented Individuals Year Over Year Change (Coos)**

| Category | 11/1/2024 | 10/31/2025 |
|---|---|---|
| Out-of-Custody | 113 | 1 |
| In-Custody | 11 | 0 |
| Probation Violation | 5 | 1 |
| Non-Criminal | 2 | 1 |
| **Total** | **131** | **3** |




The challenge in Coos County was always one of capacity. In the spring and summer of 2024, the sole provider in the jurisdiction, Southwestern Oregon Public Defender Services Inc., lost four attorneys. This represented a nearly 50% reduction in countywide attorney capacity. The departed attorneys were mainly replaced by new attorneys pursuing licensure through the Supervised Practice Portfolio Examination (SPPE) program. While an important recruitment tool and investment in future attorney capacity, SPPE attorneys typically cannot handle a full caseload as they pursue their bar license. The loss of capacity, followed by the hiring of individuals who could not fully replace previous levels of productivity, led to a quadrupling of the number of unrepresented individuals between May and October of 2024.

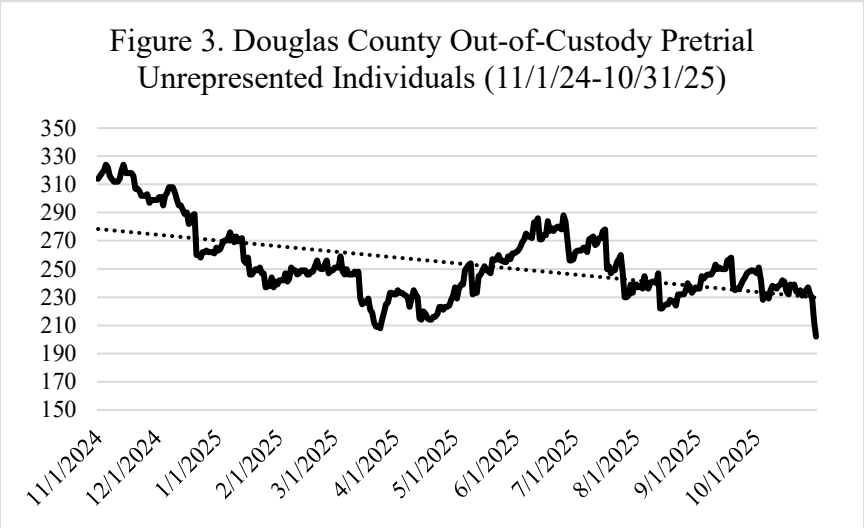
In response to the increase, the OPDC Central Valley Trial Division stationed one of its attorneys locally in Coos County in November 2024 to provide additional capacity. As shown in Figure 2, following that placement, the number of unrepresented individuals began to decrease, albeit slowly. To provide further relief, in May 2025, the OPDC Central Valley Trial region office began staffing monthly special resolution dockets, resulting in hearings for 127 cases over approximately six months. Of those 127 cases, 49 cases were successfully resolved (see Intervention Six for more details). Finally, in October 2025, a second contract provider was funded in Coos County via the 2025-27 contracts: a new consortia, Coos Defense Alliance, LLC. The impact of this addition is clearly evident in the data. With Coos County largely stabilized, OPDC intends to bring its Trial Division attorney back to Marion County at the end of this year.

Douglas County

As shown in Table 2, Douglas County reported a total of 223 unrepresented individuals, 202 of whom were out-of-custody and 9 of whom were in-custody as of the end of October 2025. Year over year, this represents a 33 percent reduction in unrepresented individuals and suggests that progress is being made in addressing the unrepresented persons crisis within the Jurisdiction.

**Table 2. Unrepresented Individuals Year Over Year Change (Douglas)**

| Category | 11/1/2024 | 10/31/2025 |
|---|---|---|
| Out-of-Custody | 314 | 202 |
| In-Custody | 8 | 9 |
| Probation Violation | 11 | 7 |
| Non-Criminal | 2 | 5 |
| **Total** | **335** | **223** |




A simple year-over-year comparison, however, masks important trends in Douglas County. Figure 3, which presents trend lines for out-of-custody pretrial unrepresented individuals, demonstrates the complexities in assessing the progress in Douglas County. Overall, the county experienced a significant reduction in unrepresented individuals between November 2024 and the end of March 2025, before experiencing a rebound that did not abate until the end of June. Numbers declined over the summer, only to stagnate in the fall. Most recently, Douglas County experienced an increase in unrepresented individuals at the end of September, followed by a sharper decline that coincided with the start of the 2025-27 contracts in October 2025.

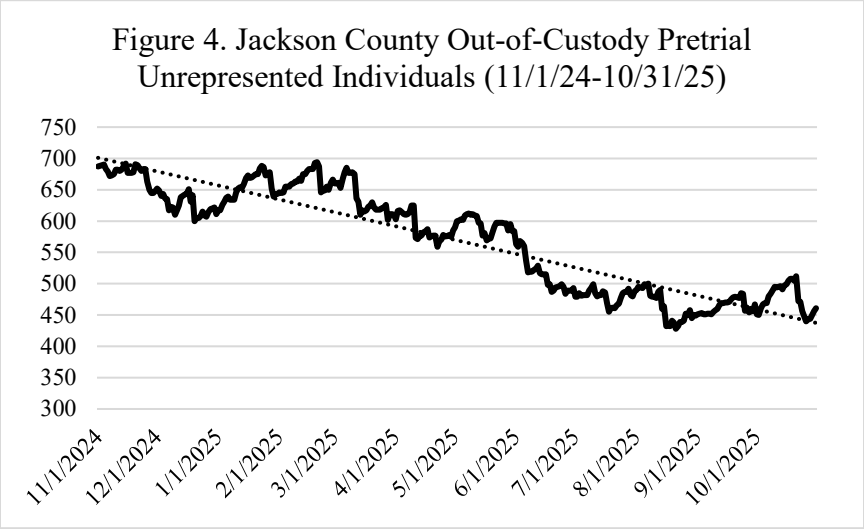
The primary engagement OPDC has had with Douglas County concerning the unrepresented crisis has been through its use of attorneys from the OPDC Trial Division through its Central Valley and Southern regional offices. Since the crisis began, the OPDC Trial Division has taken 122 Douglas County cases in total: 90 by attorneys from the Central Valley region and 32 by attorneys from the Southern region. These cases have included 5 Jessica's Law cases, 19 Measure 11 cases, and 21 major felony cases. Beyond providing direct representation to unrepresented individuals in the county, OPDC also increased its contracted MAC in the jurisdiction by 1.15 MAC for the 2025-27 contract cycle. Finally, OPDC plans to conduct additional outreach to local system partners to gauge the feasibility of interventions, such as creating a special docket, which could have a positive impact similar to that in Coos County.

Jackson County

Table 3 reports the year-over-year change in the unrepresented population in Jackson County. The jurisdiction reported a total of 574 unrepresented individuals as of the end of October 2025, 461 of which were out-of-custody and 29 of which were in-custody unrepresented individuals. Compared to November 2024, this represents an overall decline of just over 32 percent. Figure 4 provides a more detailed examination of the trend in the out-of-custody pretrial population in Jackson County. As shown in the figure, Jackson County has seen a downward trend in the number of out-of-custody unrepresented individuals over the past 12 months. Much of the fluctuation in in-custody numbers can be tied to provider MAC capacity issues, particularly at the end of each month.

**Table 3. Unrepresented Individuals Year Over Year Change (Jackson)**

| Category | 11/1/2024 | 10/31/2025 |
|---|---|---|
| Out-of-Custody | 687 | 461 |
| In-Custody | 34 | 29 |
| Probation Violation | 84 | 55 |
| Non-Criminal | 42 | 29 |
| **Total** | **874** | **574** |

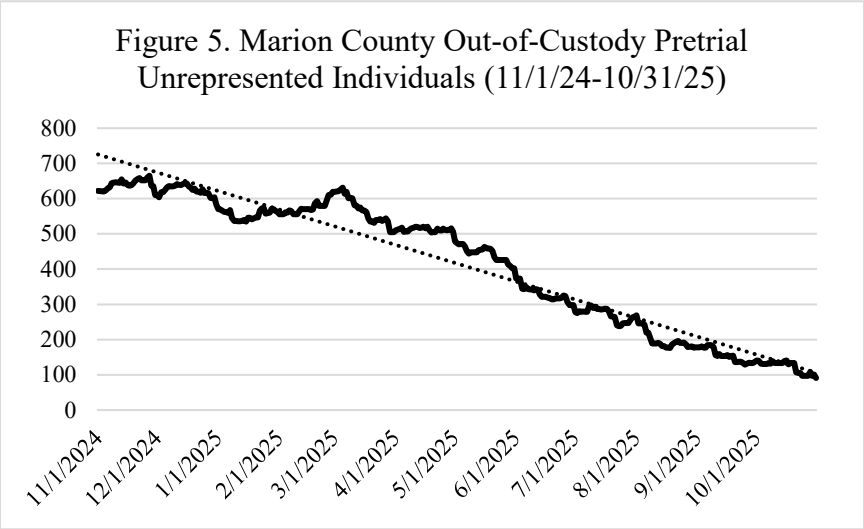



Much of the progress in Jackson County can be attributed to its Early Disposition Program, a special docket in which the district attorney identifies low-level and diversion-eligible cases at arraignment that could be resolved through up-front plea offers. Once those plea offers have been communicated to clients and they indicate a willingness to participate, the case is added to the EDP docket, which is staffed by OPDC attorneys from the Southern regional division. Since this docket began in May of 2025, the EDP has resulted in the resolution of 147 cases, all of which would have been placed on the unrepresented list had they not been resolved. The OTD Southern Regional Division also staffs the arraignment docket once a week and handles all in-custody cases on the docket that day, preventing them from becoming unrepresented. OPDC anticipates the positive momentum in Jackson County will continue, along with the continued work of the OTD Southern Regional Division via the EDP. Five attorneys within the local consortia elected to participate in OPDC's 115% program, which offers additional capacity to the county.

Over the last 12 months, Marion County has made significant progress in addressing the unrepresented crisis. As shown in Table 4, Marion County reported 199 unrepresented individuals as of October 31, 2025, a nearly 75 percent reduction from the same time last year, when the county reported 795 unrepresented individuals. The reduction has been particularly pronounced in the out-of-custody population, as shown in Figure 5, which fell from 622 on November 1, 2024, to 91 on October 31, 2025, an over 85 percent reduction in that specific population.

**Table 4. Unrepresented Individuals Year Over Year Change (Marion)**

| Category | 11/1/2024 | 10/31/2025 |
|---|---|---|
| Out-of-Custody | 622 | 91 |
| In-Custody | 9 | 12 |
| Probation Violation | 154 | 86 |
| Non-Criminal | 10 | 10 |
| **Total** | **795** | **199** |



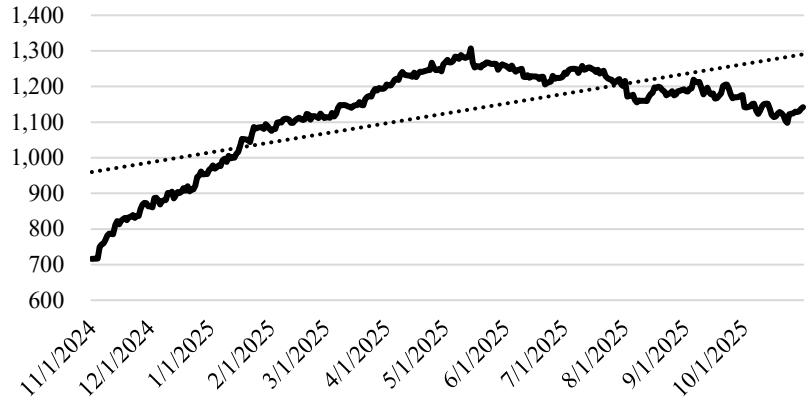

Several factors are driving the positive momentum in Marion County. A combination of improved coordination between providers and the local court's shift to assigning cases at arraignment contributed to the decrease in the number of unrepresented individuals. Specifically, the jurisdiction was able to return to a previously used "attorney of the day" arraignment model, which facilitates the assignment of more cases at arraignment and can accelerate case resolution. The OPDC Trial Division's ability to take cases off the unrepresented list also helped reduce the need to conserve MAC at the beginning of the month. Indeed, the OPDC Trial Division has taken over 600 cases in Marion County, and it has partnered with the Marion County Circuit Court and the Marion County District Attorney to establish a weekly special resolution docket. This effort, which started in October 2025, aims to resolve approximately 20 cases per week. In addition, local providers have also been taking more cases within the jurisdiction. In early 2025, for instance, OPDC increased capacity within Marion County Association of Defenders Ltd. (MCAD) by adding 1.5 FTE to their contract. Further, as the end of the 2023-25 contract cycle approached, Public Defender of Marion County (PDMC) increased its case appointment rate in March, April, May, and June of 2025, exceeding their past case assignment rates by nearly 66%. Finally, Marion has relied on an increased utilization of hourly providers to fill gaps.

As shown in Table 5, Multnomah County reported 1,137 out-of-custody and 74 in-custody unrepresented individuals as of October 31, 2025. Approaching the end of 2024, Multnomah County experienced a period of relative stability. As shown in Figure 6, however, the number of unrepresented individuals within the jurisdiction grew steadily starting in November 2024. On November 1, 2024, there were 716 out-of-custody, 67 in-custody, 12 probation violations, and seven non-criminal unrepresented individuals in Multnomah County, for a total of 802 unrepresented individuals. By mid-May 2025, those numbers had grown to almost 1,400, with the vast majority of that growth among the out-of-custody unrepresented population (which, on its own, rose by a little over 170% between November 2024 and mid-May 2025).

**Table 5. Unrepresented Individuals Year Over Year Change (Multnomah)**

| Category | 11/1/2024 | 10/31/2025 |
|---|---|---|
| Out-of-Custody | 716 | 1,137 |
| In-Custody | 67 | 74 |
| Probation Violation | 12 | 24 |
| Non-Criminal | 7 | 3 |
| **Total** | **802** | **1,238** |

Figure 6. Multnomah County Out-of-Custody Pretrial Unrepresented Individuals (11/1/24-10/31/25)




Since mid-May 2025, the number of unrepresented individuals in Multnomah County has fallen, albeit at a slower rate than in other crisis counties. Since May 15, 2025, the number of out-of-custody unrepresented persons has fallen by just over 13% to 1,137. During the same period, however, in-custody numbers have grown, due primarily to an upward trend over the last two months. The number of unrepresented persons with out-of-custody probation violations has also grown, increasing from 10 to 24 between mid-May and the end of October 2025.

It hasn't proven easy to make significant progress in Multnomah County. As described in greater detail in Intervention Six, OPDC is working to establish a special resolution docket in the jurisdiction staffed by attorneys from the OPDC Northwest Trial Division. While an important piece of the puzzle, a single special docket is not the solution on its own, given the size of the issue in Multnomah County. OPDC believes that increased capacity across the jurisdiction as a whole will provide some relief. Initial contracts with Multnomah County public defense providers for adult criminal cases included 87.40 FTE. Following the swearing-in of recent law graduates, OPDC will fund an additional 9 FTE by the beginning of December (see *Intervention Four*). Three attorneys will participate in OPDC's Exceed Caseload Program, which compensates attorneys for caseloads exceeding 100% MAC (see *Intervention One*). Finally, OPDC leadership has been meeting with the Multnomah County courts and the district attorney to develop additional strategies to address the crisis in Oregon's largest county.

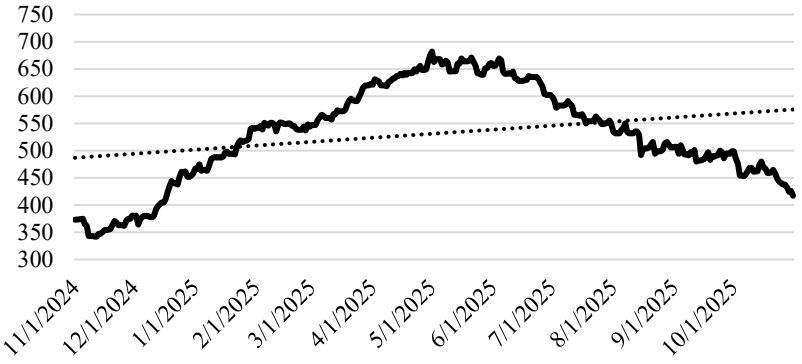
Washington County

As shown in Table 6, Washington County reported 417 out-of-custody, unrepresented defendants, 18 in-custody unrepresented individuals, 49 out-of-custody probation violation unrepresented individuals, and five unrepresented individuals with non-criminal cases as of October 31, 2025, for a total of 489. As shown in Figure 7, like Multnomah County, Washington County experienced substantial growth in its total unrepresented population through the first half of 2025, peaking at 738 in May 2025 before falling again to the numbers reported at the end of October. Thus, while Washington County has seen a reduction over the last half of 2025 from its May peak of approximately 33 percent, overall, the county has slightly more unrepresented individuals than twelve months ago. As is the case in most crisis jurisdictions, the primary driver of the unrepresented numbers is out-of-custody pretrial unrepresented individuals. The dominance of this group, however, obscures patterns found elsewhere. Among in-custody unrepresented individuals, for instance, progress has been difficult to measure due to frequent fluctuations within that population. Perhaps most concerning was an upward trend in the number of in-custody unrepresented individuals through the late summer and fall as the end of the 2023-25 contract approached. That trajectory, however, was reversed once the new contract cycle began on October 1, 2025. Recent months have also seen growth in unrepresented out-of-custody probation violations.

**Table 6. Unrepresented Individuals Year Over Year Change (Washington)**

| Category | 11/1/2024 | 10/31/2025 |
|---|---|---|
| Out-of-Custody | 373 | 417 |
| In-Custody | 29 | 18 |
| Probation Violation | 41 | 49 |
| Non-Criminal | 12 | 5 |
| **Total** | **455** | **489** |

Figure 7. Washington County Out-of-Custody Pretrial Unrepresented Individuals (11/1/24-10/31/25)




As discussed in the 12-month plan, the primary issue in Washington County has been insufficient capacity. With the start of the 2025-27 contracts, OPDC believes that some of these capacity concerns will be addressed. First, four attorneys elected to participate in OPDC's Exceed Caseload Program, which allows attorneys to be compensated for caseloads in excess of 100% MAC (see Intervention One below for more details). Initial contracts with Washington County public defense providers for adult criminal cases included 51.80 FTE for the jurisdiction. Following the swearing-in of recent law graduates, however, OPDC will fund an additional 8 FTE in the county by the beginning of December (see Intervention Four).

## 12-Month Plan Implementation

The Oregon Public Defense Commission released a plan in June 2025 to significantly reduce the number of unrepresented defendants, focusing on counties with the highest numbers of unrepresented defendants.

The multipronged proposal outlined strategies to increase the public defense system's capacity to take cases, including actions that would facilitate the hiring of newly graduated lawyers, strengthen oversight of contracts, encourage collaboration with public safety partners, and compensate experienced attorneys for voluntarily taking cases beyond 100% MAC if they have the ethical capacity to do so.

Below is an update on the proposed interventions within the plan. It should be noted that it is too early to provide data on some of the interventions contained in the plan, as the 2025-27 contracts began on October 1, 2025, and the first data reports from the new contracts won't be submitted until mid-November 2025. Due to the timing of this report, OPDC will not have data on every intervention. OPDC will submit another Status Report in September 2026, at which time sufficient data will be available to report on all interventions.

Intervention One: Exceeding Maximum Attorney Caseload Caps

For the 2025-27 contract cycle starting on October 1, 2025, OPDC revised its contract terms to facilitate the appointment and compensation of sufficiently experienced attorneys with the necessary ethical capacity to take cases exceeding current MAC limits, up to 115%, on a voluntary basis.[1] Table 7 reports the number of attorneys participating in this program, broken out by county, along with the additional MAC added to each county. As of October 1, 2025, 40 attorneys are participating in the program, and while some attorneys elected to take up to the 115 percent maximum, others did not. All participating attorneys are compensated based on the degree to which they exceed 100 percent MAC. Cumulatively, across the state, the 40 participating attorneys will provide the equivalent of nearly five additional full caseloads in the public defense system.

**Table 7. Participants in the Exceed Caseload Program by County**

| County | Participants | Additional MAC |
|---|---|---|
| Clackamas | 18 | 2.10 |
| Jackson | 5 | 0.65 |
| Klamath | 8 | 1.10 |
| Malheur | 1 | 0.15 |
| Multnomah | 3 | 0.45 |
| Statewide | 1 | 0.15 |
| Washington | 4 | 0.35 |
| Total | 40 | 4.95 |

While the additional MAC in the crisis counties (Jackson, Multnomah, and Washington) will not solve the crises in those jurisdictions, the increased capacity will help alleviate the unrepresented numbers. This program will also benefit non-crisis counties. In Klamath County, for example, the general dearth of attorneys often leads to spikes in the number of unrepresented when a single attorney in the county leaves or has to reduce MAC for various reasons. The additional MAC capacity will help bring stability to rural areas like Klamath County.

Finally, increasing the MAC in Clackamas County via this program will help prevent unrepresented cases and should also lead to cost savings. To avoid an unrepresented crisis in Clackamas County, local

[1] To qualify for inclusion in this program, the following criteria were used: an attorney must (i) have at least four years of public defense experience; (ii) be at least lesser felony qualified or Criminal Attorney Level 2 or greater; (iii) have been actively accepting appointments in felony level Cases for at least two (2) years; (iv) have at least a 0.90 FTE across all public defense contracts with at least 0.50 FTE devoted to criminal cases; (v) have no open investigations by bar ethics counsel; (vi) agree to comply with OPDC data and reporting requests, as needed; (vii) affirm that they have, and will review, all available discovery in all cases; and (viii) affirm that they have the ethical capacity to take on the additional MAC.

attorneys have resorted to taking on hourly cases once they reach their monthly MAC limits. By taking this hourly work, the local bar has prevented defendants from becoming unrepresented, but this has come via one of the more costly ways to provide defense services. By increasing contracted MAC and paying for cases under the provider contract model, OPDC should see lower expenses on hourly cases, although it is too early to quantify those savings.

Intervention Two: Expand the Collection and Analysis of Data

OPDC is committed to collecting and analyzing data regarding public defense services being provided within the state, consistent with the American Bar Association's Ten Principles of a Public Defense Delivery System. Data gathered from numerous sources, including the public defenders themselves and the Oregon Judicial Department, will allow OPDC to identify and communicate important data points on the changing nature of public defense and the quality of public defense services across the state. Over the past biennium, OPDC has significantly expanded its data collection and analysis to understand better and improve the services provided to clients. One example of this is the development of prorated MAC established in the 2023-25 contract cycle, which allows OPDC to gain a more accurate picture of statewide capacity. Additionally, the Oregon Trial Division's use of a case management system enables OPDC to access real-time caseload and timekeeping data, improving visibility into workload and resource needs. The agency has also launched public-facing dashboards displaying criminal contract and OTD caseload data. It will expand those dashboards in the 2025-27 cycle to include data from the Juvenile and Parent Child Representation Program (PCRP).

Communication of this information has likewise improved, with OPDC presenting data to the Commission more frequently, incorporating information from unrepresented defendants into public monthly reports, and working closely with the Oregon Judicial Department and the Office of Economic Analysis on forecasting. Looking ahead, the Financial Case Management System (FCMS) will provide near-real-time data on costs and timekeeping, greatly enhancing OPDC's data analysis capabilities.

Finally, 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 is an ongoing process and the agency will need additional resources to reach true maturity in this area, OPDC believes it has established a data-driven culture and will continue to expand and refine its data use.

Intervention Three: Implement Contract and Policy Adjustments

OPDC implemented contract and policy adjustments for the 2025-27 contracts to increase MAC capacity across the state by changing the agency's approaches in several areas. First, the agency changed the method for assigning MAC weights to cases in which attorneys withdraw early during the legal process. Second, refinements were made to policies regarding the assignment of partial MAC weighting for second or subsequent attorneys on a case within a single firm. Third, the agency passed new policies regarding contractor compliance with contractual terms and conditions related to MAC performance and data reporting. Finally, the agency created reduced caseload requirements for new first-year attorneys. When the Commission adopted these policy adjustments in mid-April 2025, it estimated they would result in additional capacity of 30.59 MAC at full implementation. Given that the 2025-27 contracts began on October 1, 2025, it is too early to report on the impact of the first two policy adjustments on statewide

MAC capacity. In the agency's next status report, however, it will provide data regarding the impacts of these policy adjustments.

While OPDC cannot yet report on the impact of the contractual compliance terms, it can report on their implementation. Under the 2025-27 contract, if there are two distinct occurrences during the term in which the contractor's monthly caseload increases or decreases by 15%, OPDC staff will meet with the contractor to discuss the circumstances surrounding the increase or decrease. These discussions would aim to bring the contractor back toward 90% MAC utilization. Thus, while consideration of caseload variance is built into the contracts, MAC is still treated as a ceiling, as the contracts state that no provider is expected to exceed those case limits. Exact language about the 15% variance can be found on page 5 of the 2025-27 contract under section 10, "Contract Modification and Adjustments."

**Table 8. Participants in the Reduced MAC Program as of 10/31/25[2]**

| County | Participants | MAC Reduction |
|---|---|---|
| Clackamas | 3 | 0.99 |
| Grant/Harney | 1 | 0.34 |
| Lane | 2 | 0.50 |
| Marion | 3 | 0.79 |
| Multnomah | 2 | 0.66 |
| Union | 1 | 0.29 |
| **Total** | **12** | **3.57** |

The agency can provide an updated estimate of the MAC impact of the final policy adjustment, a program that allows new attorneys to have a reduced caseload for one year. To be eligible, the attorney must be in their first year of licensure by the Oregon State Bar or have less than one year of experience representing public defense clients if the attorney was licensed in another state; be part of a mentoring or supervision program that OPDC has approved; and be qualified as a level one attorney by OPDC. Qualified applicants for the program are held to a caseload equivalent of 200 misdemeanors for one year, rather than the standard 300 misdemeanor MAC. As shown in Table 8, as of October 1, 2025, 12 first-year lawyers have elected to participate in this program across six jurisdictions. These 12 participants represent a 3.57 reduction in MAC. While it initially reduces MAC, OPDC believes this program will decrease burnout and turnover among new attorneys; it also sets more realistic and accurate expectations for MAC, enabling improved capacity planning.

Intervention Four: Facilitate the Hiring of Cohorts of New Attorneys

In its 12-month plan, OPDC recognized the need for improved, streamlined contract terms to facilitate better the hiring practices of the state's non-profit public defense providers. For the 2025-27 contract cycle, these efforts have focused more on process than on specific changes to contract terms due to the complexities of implementing an entirely new contract template in partnership with the Oregon Department of Justice for the 2025-27 biennium. OPDC, however, remains committed to helping non-profit public defense firms better compete for top legal talent, both locally and nationwide.

For the present contract cycle, when bar results were posted in October, OPDC amended several non-profit public defenders' contracts to bring in their new cohort hires of newly licensed attorneys starting November 1, 2025. As the 2025-27 contracts are finalized, OPDC plans to immediately shift to planning

[2] In future reports, the data reported for participation in the new reduced MAC program could change substantially, as the data reported in Table 9 does not include the newest cohort of attorneys who joined the Oregon Bar in mid-to-late October 2025.

and stakeholder engagement for the 2027-29 contracts, including discussions with a smaller group of providers on the cohort hiring process. OPDC hopes that by the next contracting cycle, structural changes in the contract will better support this need and pave the way for new generations of public defenders within the state.

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Intervention Five: Public Defense Law Clinics

The Oregon Legislature allocated funding for the creation of public defense clinical programs at Oregon's three law schools: Lewis & Clark Law School, the University of Oregon School of Law, and the Willamette University College of Law. The goals for these clinics were twofold: (1) create a targeted response to the state's public defense crisis, and (2) help stabilize the public defense workforce by improving recruitment, retention, and capacity. Each program is designed to provide students with hands-on training under the supervision of clinical professors and public defenders while actively representing indigent clients in court proceedings. Each program also includes a classroom component.

Initial funding for this effort was provided through HB 5204 (2024) § 35 for the 2024-25 academic year, which encompassed the fall semester of 2024 and the spring and summer semesters of 2025. OPDC received $3.4M in funding to continue support for the three law school clinics for the 2025-27 biennium via the agency's budget bill, HB 5031 (2025). OPDC is finalizing agreements with each of the three law schools for the 2025-26 academic year; clinics are continuing while these contracts are finalized. In all, OPDC anticipates that the clinics will handle over 1,000 misdemeanor cases during this biennium.

Below is an overview of the law school clinics' structure and performance during the 2024-25 academic year. OPDC will submit a full report on the legislative investment in law schools for the 2027 Legislative Session.

*Lewis & Clark Law School/Metropolitan Public Defender*

Lewis & Clark Law School currently partners with the Metropolitan Public Defender (MPD) to train law student cohorts to be practice-ready upon graduation. To be eligible, students must meet the requirements of the Oregon State Bar Law Student Appearance Program (under RFA 13.5(2)), although preference is given to third-year students. Participating students commit to working 20 hours per week over two 13-week semesters during the academic year, while summer students commit to 40 hours per week over 10 weeks. Clinic participants begin their work with an intensive three-week training at MPD (two weeks for summer clinic participants) before they can be assigned to cases. As students progress through the clinic, they gain greater independence, moving from being closely supervised at the outset to handling client meetings and court appearances independently.

*Willamette University College of Law/Public Defender of Marion County*

Willamette University College of Law employs an "in-house" model, in which all core components of the clinic program take place on campus. Misdemeanor cases from the unrepresented defendant list are assigned directly to the clinical professor in charge and then assigned to law students. Participating students commit to 12 hours per week, though higher hourly commitments are available for additional course credit. Students are assigned a single case at the outset of the program and build their caseload

slowly over time, focusing intently on each case to learn the nuances of public defense practice. Each week, they attend court hearings and client meetings, perform case-related work, and also attend a two-hour seminar, meetings with their supervisor, and mentor meetings. In partnership with the Public Defender of Marion County (PDMC), students also attend trainings and case staffing meetings at PDMC.

*University of Oregon School of Law/Public Defender Services of Lane County*

The University of Oregon School of Law partners with two different public defense providers for its clinic. The first partner is Public Defender Services of Lane County, which operates as the home for the Eugene-based arm of the University of Oregon clinic program. Each semester begins with an intensive "bootcamp" training program, after which students attend weekly two-hour class sessions for the remainder of the semester. Coursework covers critical substantive content and helps participants develop their legal skills. Students are also responsible for attending court hearings, holding client meetings, performing case work, and attending weekly supervision meetings, training sessions, and case roundtable meetings at the Public Defender Services of Lane County.

*University of Oregon School of Law/Multnomah Defender Inc.*

The University of Oregon School of Law has a second clinical partnership with Multnomah Defender, Inc. (MDI). In this program, students are fully integrated into MDI's daily operations and have the opportunity to work with several members of the MDI staff. Students enrolling in the clinic begin with an intensive training period before building a caseload under the supervision of the Lead Clinical Instructor. In addition to working with the lead instructor, students are paired with two mentors from MDI who provide ongoing support as they progress through the program. Weekly, students are expected to attend a class seminar, meet with their supervising attorney, and participate in misdemeanor case meetings and monthly caseload updates. Students also attend MDI weekly sessions devoted to moot case preparation, where they either watch experienced attorneys moot their cases in preparation for trial or have the opportunity to moot their own cases before hearings and/or trials.

*Law School Clinic Reporting for the 2024-25 Academic Year*

Table 9 reports high-level data on the three law school clinics and their four partnerships during the 2024-25 academic year, including the fall 2024 semester and the spring and summer 2025 terms. In all, 62 law students participated in the clinics. These students took 535 cases, 394 of which, or almost 75%, were closed during the academic year. Cases that remain open past the end of the summer term are still assigned to the clinics and will be included in future clinic data for the 2025-2026 academic year.

**Table 9. Law School Clinic Reporting for the 2024-2025 Academic Year Cases**

| Law School | # Students | Opened | Closed | Partner Organization |
|---|---|---|---|---|
| Lewis & Clark | 15 | 281 | 208 | Multnomah Public Defender |
| University of Oregon | 10 | 67 | 45 | Multnomah Defenders, Inc. |
| University of Oregon | 17 | 78 | 72 | Public Defender Services of Lane County |
| Willamette Univ | 20 | 109 | 69 | Marion County Public Defender |
| **Total** | **62** | **535** | **394** | |

Future data tracking will include gathering information on employment choices and outcomes for program participants to gauge whether the clinics are working as effective pipelines into the public defense profession. It is important to remember that the programs accept both 2L and 3L law students, which means that, of the 62 participants, only a portion have graduated and are currently entering the legal profession. Through reporting from OPDC's law school partners, some anecdotal information has been acquired regarding clinic participants transitioning into the profession. For instance, two recent graduates who participated in a clinic are reportedly now employed in the mid-Willamette Valley region. Other graduates have and continue to apply for public defense work, both in Oregon and elsewhere.

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Intervention Six: Special Resolution Dockets

Since the release of the 12-month plan, OPDC's Trial Division has partnered with district attorneys and courts in Coos, Jackson, Marion, and Multnomah counties to pilot or create special resolution dockets. While each special docket has a similar goal—the quick resolution of cases—how they resolve, as well as the stage at which resolution occurs, varies across jurisdictions. Some special dockets, such as the Early Disposition Program in Jackson County, aim to intervene early in a case, immediately after arraignment, so that cases resolved by the program never go on the unrepresented list. This approach can lead to an overall reduction in the number of unrepresented individuals within a given jurisdiction by reducing the inflow of cases onto the unrepresented list. Alternatively, some special dockets aim to remove individuals who have already been placed on local unrepresented lists. In Coos County, for example, the district attorney would identify cases for resolution and make plea offers to defendants who had been unrepresented. This approach reduces the number of unrepresented individuals directly by removing them from the rolls as their cases resolve.

While these efforts have included many of the attorneys from the OPDC trial team across its three regions, this work has been strengthened by the addition of a dedicated special resolution docket attorney on the trial team, a position allocated to the agency in its 2025-27 budget. Currently, this attorney resides within the OTD Central Valley office, spearheads the Marion County Early Resolution Docket, and works on an additional special docket called Restore Court, as well as expanding special resolution efforts in Multnomah County (see below).

In this report, the subsections that follow focus on special dockets created in crisis jurisdictions since the release of the 12-month plan. It should be noted, however, that other special dockets have existed and continue to exist elsewhere in the state and can lead to beneficial outcomes in non-crisis jurisdictions as well. There are also efforts to establish special dockets in other crisis jurisdictions not listed below, although it is too early to report on them.

*Coos County*

The Coos County Early Resolution Docket was a monthly special docket staffed by the OPDC Central Valley Trial Division, where the district attorney identified cases on the unrepresented defendant list for possible resolution. Following the identification of eligible cases, the district attorney provided discovery to the Trial Division, which reviewed the information, along with the plea offer, with clients in advance of the docket date. As shown in Table 10, a total of 127 cases were included on this docket between May and October 2025. Of those cases, 49 were resolved, removing them from the unrepresented list. A total of 41

cases involved individuals who failed to appear in court, resulting in the issuance of bench warrants for those defendants. In cases where clients were unwilling to accept the plea bargains offered by the district attorney, those cases were temporarily added back to the unrepresented list before being removed in early October once the new 2025-27 public defense contracts were signed. As of the writing of this report, the current iteration of this docket has concluded because Coos County no longer has a lengthy list of unrepresented defendants. Conversations between the local court and providers are ongoing to determine whether this or other special docket types should be continued.

**Table 10. Case Outcome Data for the Coos County Early Resolution Docket**

| Case Outcomes | May | June | July | Aug | Sep | Oct | Total |
|---|---|---|---|---|---|---|---|
| Cases on the Docket‡ | 20 | 28 | 17 | 19 | 20 | 23 | **127** |
| *Removed from Unrepresented List* | | | | | | | |
| Resolved | 9 | 12 | 6 | 7 | 7 | 8 | **49** |
| *Not Removed from Unrepresented List* | | | | | | | |
| Failed to Appear | 3 | 13 | 7 | 6 | 5 | 7 | **41** |
| Set Over‡ | 6 | 1 | 3 | 3 | 3 | 2 | **18** |
| Declined Plea | 2 | 2 | 0 | 3 | 4 | 6 | **17** |
| Total | 11 | 16 | 10 | 12 | 12 | 15 | **76** |

‡ Cases set over in one week remain on the ERD docket into the weeks that follow. Some cases, therefore, may be counted twice.

*Jackson County*

**Table 11. Case Outcome Data for Jackson County EDP**

| EDP Outcome | Number | Percent |
|---|---|---|
| Assigned Atty | 39 | 24.2% |
| Resolved | 108 | 67.1% |
| Failed to Appear | 14 | 8.7% |
| **Total** | **161** | **100%** |

The Jackson County Early Disposition Program (EDP) is a special docket in which the district attorney identifies low-level, diversion-eligible cases at arraignment that can be resolved quickly through up-front plea offers. Plea offers for qualifying cases are communicated to defendants at arraignment. If a defendant indicates a willingness to participate, the case is added to the EDP docket, which is staffed by OTD Southern Regional Division attorneys. Importantly, because these cases are identified at the outset and routed into the special docket so quickly, they do not have the chance to be added to the unrepresented list. Since its inception in May 2025, this effort has included 158 unique cases, with 15-20 new cases added to the docket every two weeks. Of the 158 cases, 105, or around two-thirds, have been resolved via dismissal, a guilty plea, or some other outcome such as DUII diversion. Of those cases that did not resolve, the majority resulted in counsel being assigned to the case. In contrast, a smaller percentage, less than 10 percent of the total cases, failed to appear, which resulted in the issuance of a bench warrant.

*Marion County*

The Marion County Early Resolution Docket, which began operations in October 2025, was developed in partnership with the Marion County District Attorney and the presiding judge. This early resolution docket starts with the court identifying individuals on the unrepresented list who may have cases

appropriate for quick resolution. The proposed docket is sent to the district attorney and the OPDC Central Valley Trial Division to schedule approximately 20 cases per week for resolution. Thus far, as shown in Table 12, the goal of 20 cases per week has been met over the initial five weeks the docket has been in operation. Over those five weeks, a total of 106 cases have been scheduled, with 36 reaching a resolution and 22 resulting in a declined plea. Importantly, within the Marion County ERD program, defendants who elect not to settle their cases during the special docket are immediately assigned counsel, so even though their cases do not resolve, they are removed from the unrepresented list.

**Table 12. Case Outcome Data for the Marion County Early Resolution Docket**

| Case Outcomes | 2-Oct | 9-Oct | 16-Oct | 23-Oct | 30-Oct | Total |
|---|---|---|---|---|---|---|
| Cases on Docket‡ | 20 | 20 | 22 | 20 | 24 | **106** |
| *Removed from Unrepresented List* | | | | | | |
| Resolved | 6 | 8 | 4 | 10 | 8 | **36** |
| Declined Plea† | 6 | 3 | 6 | 1 | 6 | **22** |
| Total | 12 | 11 | 10 | 11 | 14 | **58** |
| *Not Removed from Unrepresented List* | | | | | | |
| Failed to Appear | 5 | 4 | 5 | 5 | 4 | **23** |
| Set Over‡ | 0 | 3 | 6 | 1 | 6 | **16** |
| Other/Removed | 3 | 2 | 1 | 1 | 2 | **9** |
| Total | 8 | 9 | 12 | 7 | 12 | **48** |

† Cases involving defendants who decline plea offers are assigned counsel.
‡ Cases set over in one week remain on the ERD docket into the weeks that follow. In some cases, therefore, may be counted twice.

*Multnomah County*

In Multnomah County, a partnership between the Multnomah County Circuit Court, the Multnomah County District Attorney's Office, and OPDC is in the early stages of developing a special resolution docket focused on identifying cases for resolution among those on the unrepresented list. On August 27, OPDC Northwest Trial Division attorneys participated in the initial "pilot day" for this docket, which consisted of 41 C felony cases (some with additional, lower severity charges) for defendants who had been out of custody and awaiting appointment of an attorney and who did not have a history of failing to appear in court. All offers made during this pilot were for probationary terms. On the docket date, 19 cases were resolved. An additional 11 cases were resolved in the months that followed. This represents a case resolution rate of 73.2%.

Since this initial pilot day, OPDC has continued to collaborate with local system partners to build on this early success and is working to streamline the process to include additional offense types in future dockets. This collaboration has also been working to develop a process for identifying similarly situated defendants at the point of arraignment so they can be quickly transitioned to an early resolution docket. The Trial Division's new early resolution attorney, based at the Central Valley Regional office, has been integrated into these negotiations, to eventually take over OTD's Multnomah County special docket development process.

Intervention Seven: OPDC Trial Division

The OPDC Oregon Trial Division (OTD) is a key resource the state can leverage in addressing the number of unrepresented Oregonians. OTD comprises state-employed attorneys and support staff who provide trial-level defense services. The division has offices in three regions, (i) the Northwest Region, covering two offices, which primarily serves the Portland metropolitan area, including Clackamas, Multnomah, and Washington counties; (ii) the Central Valley Region, which primarily serves Marion County as well as acting as the source of statewide capacity when needed, and (iii) the Southern Region, which primarily serves Jackson County. OTD currently has 17 attorneys and three chief deputy attorneys, who manage the regional offices.

**Table 12. Oregon Trial Division Caseload Summary**

| Region | Attys† | Open | Pending | Closed | Total | MAC |
|---|---|---|---|---|---|---|
| Central Valley | 6 | 337 | 133 | 511 | 1,021 | 109.14% |
| Northwest | 6 | 493 | 51 | 312 | 856 | 98.54% |
| Southern | 5 | 279 | 85 | 934 | 1,298 | 115.23% |
| **Total** | **17** | **1,109** | **269** | **1,757** | **3,175** | 106.92% |

† Each regional office employs one chief deputy attorney

While the Trial Division maintains only four offices in the state, it has handled nearly 3,200 cases in 25 of Oregon's 36 counties. As shown in Table 12, as of October 31 of this year, both the Central Valley and Southern Regions have taken over 1,000 cases each, with the Northwest Region not far behind. As shown in Figure 8, the Trial Division has taken more cases in some counties than others. Indeed, in 12 of the 25 counties in which the Trial Division has provided representation, the number of cases assigned is less than 10 (lighter-shaded counties in Figure 9). In the other counties, however, case assignments have been much higher, particularly in Jackson County (1,181 cases assigned), Marion County (674 cases assigned), Multnomah County (495 cases assigned), and Washington County (348 cases assigned).

The breadth of coverage shown in Figure 8 demonstrates one of the trial division's unique strengths—its flexibility to respond to local needs and mitigate emerging or existing unrepresented crises. In Coos County, for example, the Trial Division has handled more than 150 cases. In mid-2024, the only contract provider in Coos County lost around half of its attorney capacity, leading to an unrepresented crisis and prompting the jurisdiction to be added to the crisis county list. In November 2024, OPDC assigned one of its Central Valley Region attorneys to Coos County for a one-year rotation. In addition to handling their normal caseload, including *Betschart* cases, this attorney worked with the court and the DA's office to establish a special resolution docket. As discussed in the preceding section of this report, the monthly special docket, staffed by both the local Trial Division attorney and other attorneys from the OPDC Central Valley Region office, has been crucial in effectively eliminating Coos County's unrepresented pretrial backlog.

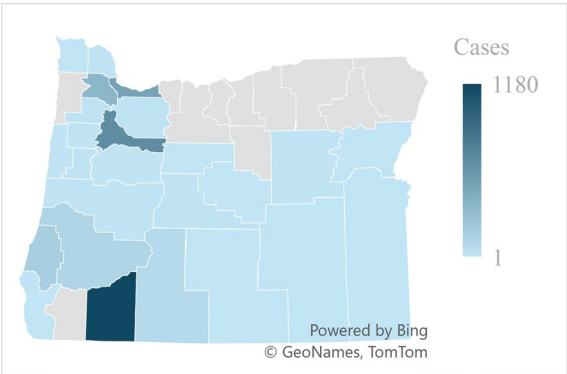


**Figure 8. Locations of OTD Cases by County**

Similarly, in the summer of 2024, attorney attrition in Deschutes County led to the development of an unrepresented list there, which peaked at over 150 in August 2024. The OPDC Central Valley office sent attorneys to Deschutes to assist with special resolution dockets, which led to the elimination of the backlog. Finally, as shown in Figure 8, the Trial Division has been able to address small numbers of cases outside its normal jurisdiction, including Measure 11, Jessica's Law, and murder cases. For example, in the fall of 2025, the Northwest Region took a murder case in Crook County to assist the local bar there.

Data about the Trial Division can be found under Caseload Summary on the Trial Division Dashboard. The trial team prioritizes *Betschart* and other in-custody cases, with a secondary focus on out-of-custody clients with serious charges, those who have been on the unrepresented list for extended periods, and cases that are particularly complex due to clients' mental health needs, language barriers, and other factors. As shown in Table 12, the staff at the Trial Division offices are collectively working at over 100% of MAC.

## AGENCY OPERATIONS

OPDC has undergone significant leadership, structural, and operational changes over the past five years. At the same time, it has been navigating significant statutory and budgetary changes as it has transitioned into the Executive Branch of state government. Part of that development has been a focus on creating an accountable, transparent, and effective agency. OPDC continues to work towards a unified goal: to restore credibility in the Commission as an efficient and effective administrator of Oregon's public defense system by stabilizing agency administration; thereby ensuring constitutionally competent and effective legal representation for persons eligible for a public defender.

### Compliance, Audit, and Performance

OPDC is continuing to develop its Compliance, Audit, and Performance (CAP) Program, which was created to provide a central framework within the agency designed to strengthen oversight, accountability, and transparency across the state's public defense system. The structure of CAP aligns with nationally recognized standards, including the American Bar Association's Ten Principles of a Public Defense Delivery System. It formalizes a governance model that integrates monitoring, evaluation, and data-driven performance management into agency operations. The CAP program consists of three sections: (1) Compliance, (2) Data and Research, and (3) Internal Audit. Each section has a distinct but interconnected role in promoting high-quality representation and effective agency operations.

**Compliance**. This section, under the Compliance Manager, ensures that providers adhere to their contracts. If contractors do not meet their contractual obligations, program analyst staff will work with them to identify the causes, develop solutions, and document interventions. This process is crucial for ensuring contractor compliance and recording any necessary agency actions. Future compliance work will incorporate the recently adopted performance standards, ensuring that providers meet both qualitative and quantitative expectations.

The agency's Case Assignment Coordinators also report to the Compliance Manager. While these coordinators are currently focused on finding representation for unrepresented persons, the goal, once the crisis has abated, is to utilize them in a quality-control function. They will review case assignments and

provider reports to ensure that reported cases match assigned cases and to reconcile submitted provider data with OJD data.

**Data and Research**. This section supports CAP functions by collecting and analyzing data. For instance, the Data and Research section is currently working with the Compliance section to develop more effective systems for monitoring provider capacity and to automate certain compliance and case assignment tasks. They also collaborate with other parts of the agency to provide information and demonstrations to stakeholders on how data is utilized and to improve data input.

**Internal Audit**. As of November 1, 2025, the sole auditor within the agency will shift from an internal agency auditor focused on agency risk to an auditor within CAP performing financial and spot-check audits of the agency's payment systems. The auditor, which was moved from the Executive Division back to CAP through HB 5031, will report to the CAP manager, with a secondary reporting structure directly to the Commissioners and the agency's Audit Committee.

CAP is also where the agency's Key Performance Measures (KPMs) are developed, as these measures of agency performance span many sections of CAP. CAP, in partnership with agency leadership, is currently working with Commissioners to update the agency's KPMs for the 2027-29 biennium.

The next addition to CAP's responsibilities is the establishment of a formal structure to handle and resolve external complaints. This work is currently in progress and has included updates to reconsideration policies for PAE requests, the establishment of a more formal structure for awarding Extraordinary Case Credit, and the establishment of structural oversight for the granting of co-counsel. Additionally, work is underway on an automation system to route complaints to the appropriate division. The aim is to create a process that allows complaints- whether about a provider, internal agency customer service, or other internal or external issues- to be acknowledged and addressed promptly, with a transparent and efficient escalation pathway.

Finally, the agency is currently working to move some functions out of CAP that previously fell under its purview to ensure that CAP aligns with the original legislative intent behind its creation. As such, as of November 2025, staff engaged in policy development have been removed from the CAP division and now report directly to the agency's Deputy Director. Similarly, the Trial Support and Development section has also been removed from CAP, as its placement there was intended to be temporary. Like policy, Trial Support and Development will report directly to the agency Deputy Director. By aligning with the original legislative intent behind CAP's creation, these changes will ensure that the CAP Division does not engage in programmatic work, allowing it to focus on its core functions.

## Policies and Rulemaking

*Policy Development*

OPDC has invested substantial effort in establishing and drafting policies and procedures across the agency, to create a high-functioning agency as it emerges from its transition from the Judicial Branch to

the Executive Branch. The agency's policy team developed an organizational structure for its policies that mirrors the agency's budget structure, using the same division and section categories and numbering to ensure consistency between policy and budget.

In 2024, the agency developed and approved 12 policies. As of October 2025, OPDC added 49 newly developed and adopted policies and updated or revised 39 additional agency policies. OPDC has also created three process manuals. As for future policy development, the agency's policy team has prioritized 41 pending policy projects, all of which are currently under development. In addition to creating the policy itself, the policy team also aims to develop toolkits for each policy to support staff training and ensure consistent implementation.

Some of the key policies approved in 2025 include:

- Customer Service
- Risk Assessment
- Policy Development
- Personnel Records
- Pre-Authorized Expenses
- Citizenship and Immigration Rights
- Risk Assessment
- Public Records
- Co-Counsel

*Rulemaking*

In support of the policy work, OPDC is also working on its first Oregon Administrative Rules (OARs). As part of the Judicial branch, OPDC was not subject to rulemaking. Since the transition, the first Rules Advisory Committee (RAC) has been established. The RAC includes stakeholders representing providers, people with lived experience, and subject matter experts. The RAC is currently completing its first set of rules, which are expected to be filed and take effect in early 2026. Planned early rule filing includes topics such as:

- Rulemaking Authority
- Agency Acronyms
- Agency Definitions
- Agency Responsibilities

*Public Records*

Another way the policy team is enhancing transparency and customer service is through its public records processes and policies. There is now a simple request form on the agency's website. All requests are routed through the same streamlined process, ensuring statutory timelines are met. The process was changed in October 2024, and as of October 2025, the agency has received and responded to 184 public record requests. These requests are for information, including:

- Invoices and payment authorization on individual cases
- Emails and Internal Communication
- Data or Reports
- Historical documents used to support agency decisions
- Contracts and Supporting Documentation

## Long-Term Planning

While the Commission's immediate focus remains on resolving the ongoing unrepresented persons crisis and stabilizing service delivery statewide, OPDC is committed to a future transition away from the current MAC model to an approach that more accurately reflects the time and resources required to

provide constitutionally effective representation. This transition, however, will take time, as any new workload model adopted by OPDC will directly affect its budget. Due to this relationship, the timing of transitioning to a new workload model must be coordinated with preexisting state budget development timelines and the legislative calendar. As such, the earliest that OPDC could effectuate a transition away from MAC to a new workload approach would be during the 2029 Legislative Session.

For much of its history, OPDC employed a case credit model, in which compensation was tied to the number of cases assigned to attorneys during a given contract period. This approach incentivized high caseloads, as volume was the primary way that attorneys could ensure they were adequately compensated for their work. In 2021, OPDC began moving away from the case credit model toward a model based on full-time equivalent employment with caseload limits. These limits, termed the "maximum attorney caseload" (MAC), are the model still employed today.

Since its inception, however, the MAC model has been subject to significant criticism. This criticism has come from multiple angles, whether from public defenders themselves or from court staff, judges, prosecutors, legislators, and budget writers. In response to this criticism, the Commission has been seeking to adopt an alternative workload model since 2019. The MAC model was originally intended as a temporary fix for a suboptimal pay-per-case system and was not meant to be a long-term solution. In the intervening time, however, the unrepresented crisis developed, a global pandemic occurred, the agency experienced multiple leadership changes, and the agency began a statutorily mandated transition from the Judiciary Branch to the Executive Branch. Based on these exogenous factors, a viable, thoroughly socialized workload plan never gained momentum.

Although a shift to a new workload model has yet to occur, prior efforts have laid a foundation for the agency to build upon. A significant amount of data collection and analysis, including the analysis of hourly data from the Oregon Trial Division and hourly attorneys, has provided valuable insights into the time required to provide representation across different types of cases. OPDC has also collaborated with the DAS Office of Economic Analysis forecasting team to examine average case lengths and how open workload impacts forecasted caseloads. Finally, national experts have offered feedback and helped construct a framework that could be used to develop future workload models.

<table>
<tr><th colspan="4">2026</th><th colspan="4">2027</th><th colspan="4">2028</th><th>2029</th></tr>
<tr><th>Q1</th><th>Q2</th><th>Q3</th><th>Q4</th><th>Q1</th><th>Q2</th><th>Q3</th><th>Q4</th><th>Q1</th><th>Q2</th><th>Q3</th><th>Q4</th><th>Q1</th></tr>
<tr><td colspan="3">2027 Budget Development</td><td>Gov Budget</td><td colspan="2">2027 Legislative Session</td><td></td><td colspan="3">2029 Budget Development</td><td>Gov Budget</td><td>2029 Legislative Session</td></tr>
<tr><td>Initiation Phase and Project Planning</td><td colspan="3">Model Development & Ongoing Stakeholder Engagement</td><td colspan="4">Incorporation of the New Model into 2029 Budget Development</td><td></td><td></td></tr>
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**Figure 10. Tentative Timeline for Transition to a New Workload Model**

Figure 10 provides a high-level timeline for a transition to a new workload model. A robust stakeholder engagement process will be necessary to adequately develop, vet, and refine a workload model that more accurately reflects the time and resources required to provide constitutionally effective representation,

while also fitting into a constrained budget environment and not disrupting the functioning of the legal system. Unfortunately, the time necessary to engage in a robust development process does not exist if the goal is to make this transition during the upcoming 2027 Legislative Session. As shown in Figure 10, agency efforts concerning budget development for the 2027 Legislative Session will begin in January of 2026. Due to these time constraints, OPDC plans to lead a stakeholder-driven process beginning in 2026 that will continue through 2027 and will involve a wide range of system partners, including public defense providers, the courts, and district attorneys, as well as other essential stakeholders, including Legislators, the Governor's Office, and individuals who receive public defense services.

As shown in Figure 10, the first stage in this effort will include project initiation and planning, which will entail identifying critical stakeholders, collaborating with stakeholders and partners to define project success criteria, determining which resources within OPDC will be available to oversee and contribute to the process, scoping, and setting a more detailed project timeline and expected deliverables. The second stage will involve the challenging work necessary to develop a new workload model that accommodates the intricacies and nuances of the Oregon public defense system and the broader criminal justice system. While much of this work will be focused on internal agency policy, research, and budget staff, it is essential that stakeholders be brought along in parallel, so that essential feedback can be gained as the model is developed and refined through an iterative process. The overarching goal of this effort is to have a fully vetted proposed model available for inclusion in the budget development process, which is scheduled to begin in early 2028 for the 2029 Legislative Session.

## SERVICE DELIVERY COSTS AND CASELOADS

To determine the number of attorneys needed to cover projected caseloads across the state, OPDC staff began by using the DAS Office of Economic Analysis (OEA) forecast, broken down by county, and converting those figures into estimates of the MAC needed in each jurisdiction. To supplement the forecast, staff also reviewed data reported by providers and incorporated local knowledge to add qualitative context to the quantitative analysis. Using this information, OPDC staff developed jurisdiction-level proposals to guide planning for the 2025–27 contract cycle. Contractors then worked with OPDC staff to refine these proposals and submitted plans outlining their anticipated staffing levels and resource needs for the upcoming biennium. The result of this process is the 2025-27 contracts that went into effect on October 1, 2025.

The following sections provide information on OPDC's service delivery model, including who provides public defense services, caseload information, and cost factors. This information is combined to create the biennial financial forecast.

### Providers

Public defense in Oregon is organized through three main channels: capacity contracts with external providers, hourly contracts with lawyers outside of OPDC, and the OPDC Trial Division. Capacity contract providers are organizations that have a contract with OPDC to provide public defense using the MAC model. Contract providers include non-profits, consortia, and individuals or law firms. Hourly providers take cases on an ad hoc basis and submit bills for the hours they work on each case. The OPDC

Trial Division began in December 2023 and consists of full-time public defenders employed by the state who also operate under the same MAC model as contract providers.

Table 13 reports attorney MAC by provider type. This table combines MAC for services on adult cases, juvenile cases, and PCRP cases, and only includes attorney MAC that is providing public defense representation. It excludes supervision, the reduced caseload program and SPPE FTE that is non-caseload, investigation, or other non-MAC contracts. In addition to contract providers and the Oregon Trial Division, OPDC has also signed hourly agreements with 180 hourly attorneys.

**Table 13. Total MAC by Provider Type as of 10/1/2025**

| Provider Type | MAC |
|---|---|
| Non-Profit | 227.26 |
| Consortia | 310.18 |
| Individuals/Law Firms | 102.22 |
| Oregon Trial Division | 17.00 |
| **Total** | **656.66** |

Tables 14, 15, and 16 provide detailed breakdowns of contracted providers for the 2025-27 contracts as of October 1, 2025, by attorney qualification, including non-MAC FTEs, such as investigators and supervision. SPPE participants and attorneys working under the OPDC Reduced Caseload Program are broken down by MAC and FTE, to better show the portion of the 1.0 FTE providing case coverage (MAC) and the portion that is not (FTE).

**Table 14. 2025-27 Adult Trial Division Provider Contract FTE as of 10/1/2025**

| Adult Trial Division | Position Classifications | Contracted Amount |
|---|---|---|
| *Contracted MAC (Standard Provider Contracts)* | | |
| Reduced Caseload Program (Atty FTE caseload) | Attorney 1 | 6.31 |
| SPPE (Atty FTE caseload) | Attorney 1 | 2.93 |
| Misdemeanor | Attorney 1 | 46.18 |
| Minor Felony, Civil Commitment | Attorney 2 | 85.06 |
| Major Felony | Attorney 3 | 162.44 |
| Murder | Attorney 4 | 122.11 |
| | | 425.03 |
| *Statewide Contracted MAC* | | |
| Post Conviction Relief/Habeas Corpus | Attorney 4 | 16.50 |
| Post Conviction Relief appeals | Attorney 4 | 4.42 |
| Civil commitment appeals | Attorney 4 | 2.60 |
| Civil commitment appeals - PSRB, Padilla Referral contract | Attorney 3 | 3.19 |
| PSRB requiring supervision | Attorney 2 | 0.60 |
| Murder | Attorney 4 | 12.82 |
| | | 40.13 |
| **Total Contracted Attorney MAC** | | **465.16** |
| *Reduced Caseload and SPPE FTE* | | |
| Reduced Caseload Program (FTE non-caseload) | Attorney 1 | 3.42 |
| SPPE (FTE non-caseload | Attorney 1 | 12.32 |
| | | 15.74 |
| *Supervision FTE* | | |
| Standard Provider Supervision | Supervisior-2 | 0.26 |
| Standard Provider Supervision | Supervisior-3 | 1.24 |
| Standard Provider Supervision | Supervisior-4 | 12.64 |
| Statewide supervision | Supervisior-4 | 1.2 |
| | | 15.34 |
| *Investigation FTE* | | |
| | Investigators | 55.92 |
| | | 55.92 |
| **Total Contracted Additional FTE** | | **87.00** |
| **TOTAL ADULT TRIAL ATTORNEY MAC AND FTE** | | **552.16** |

**Table 15. 2025-27 Juvenile Trial Division Provider Contract FTE as of 10/1/2025**

| Juvenile Trial Division | Position Classifications | Contracted Amount |
|---|---|---|
| *Contracted MAC (Standard Provider Contracts)* | | |
| SPPE (Atty FTE caseload) | Attorney 1 | 0.05 |
| Delinquency | Attorney 2 | 2.16 |
| Reduced Caseload Program (Atty FTE caseload) | Attorney 3 | 0.30 |
| Dependency, Dependency & Delinquency | Attorney 3 | 84.16 |
| Murder | Attorney 4 | 5.83 |
| | | 92.50 |
| *Statewide Contracted MAC* | | |
| Juvenile Appeals | Attorney 4 | 2.80 |
| Murder | Attorney 4 | 0.66 |
| | | 3.46 |
| **Total Contracted Attorney MAC** | | **95.96** |
| *Reduced Caseload and SPPE FTE* | | |
| Reduced Caseload Program (FTE non-caseload) | Attorney 1 | 0.15 |
| SPPE (FTE non-caseload) | Attorney 3 | 0.25 |
| | | 0.40 |
| *Supervision FTE* | | |
| Standard Provider Supervision | Supervisior-3 | 0.06 |
| Standard Provider Supervision | Supervisior-4 | 1.45 |
| | | 1.51 |
| *Investigation FTE* | | |
| | Investigators | 1.32 |
| | | 1.32 |
| **Total Contracted Additional FTE** | | **3.23** |
| **TOTAL JUVENILE ATTORNEY MAC AND FTE** | | **99.19** |

**Table 16. 2025-27 Parent Child Representation Program Provider Contract FTE as of 10/1/2025**

| Parent Child Representation Program | Position Classifications | Contracted Amount |
|---|---|---|
| *Contracted MAC (Standard Provider Contracts)* | | |
| Juvenile Delinquency | PCRP Attorney | 0 |
| Dependency | PCRP Attorney | 8.93 |
| Delinquency / Dependency /Termination of Parental Rights | PCRP Attorney | 69.62 |
| | | 78.55 |
| **Total Contracted Attorney MAC** | | **78.55** |
| *Reduced Caseload and SPPE FTE* | | |
| SPPE (FTE non-caseload) | PCRP Attorney | 0.37 |
| | | 0.37 |
| *Supervision FTE* | | |
| Standard Provider Supervision | Supervisior-4 | 2.78 |
| | | 2.78 |
| *Case Managers* | | |
| | Case Managers | 26.67 |
| | | 26.27 |
| *Investigation FTE* | | |
| | Investigators | 3.00 |
| | | 3.00 |
| **Total Contracted Additional FTE** | | **32.82** |
| **Total PCRP** | | **111.37** |

## Caseload Reporting

SB 337 (2023) requires the Department of Administrative Services Office of Economic Analysis (DAS OEA) to issue a state public defense population forecast, including expected populations of adults and juveniles eligible for appointed counsel. Similar to other forecasts, including forecasts related to Department of Corrections and Oregon Youth Authority populations, DAS OEA is required to release the forecasts twice per year on April 15 and October 15. Also similar to other forecasts, the data provided by DAS OEA is then to be used in budget development for the agency.

OPDC signed an interagency agreement with DAS OEA in late 2023 for this work. OPDC, the Criminal Justice Commission (CJC), the Oregon Judicial Department (OJD), and other partners collaborate with DAS OEA to review the forecast methodology, data inputs, and how the forecast informs contracting and budgeting. Although this forecast is still new, it will become more precise with each iteration. OEA released the first public defense forecast on April 15, 2024 and its most recent forecast was released on October 15, 2025. The next forecast will be published on April 15, 2026 and will be used to build OPDC's Agency Request Budget (ARB) as it moves toward the 2027 Legislative Session.

According to the most recent forecast, released in October 2025, adult eligibility for public defense services is projected to increase through FY 2031, primarily due to House Bill 4002 (2024), which recriminalized possession of user amounts of controlled substances. Impacts are most visible in misdemeanor and probation violation case categories. OPDC's 2025-27 budget was based on projections from the April 2025 forecast. Table 17 presents data from the latest eligibility forecast in October 2025 compared to the prior forecast from earlier in the year. Overall, as shown in Table 17, there is a 1.1 percent increase in projected cases compared to the previous forecast, which is largely attributable to increases in misdemeanor (2.5 percent) and probation violation (2.1 percent) cases, as well as a projected decrease in felonies (-2.2 percent).

**Table 17. Reproduction of Public Defense New Eligibles Summary from the October 2025 Public Defense Forecast**

| | | Apr 2025 Fcst | Oct 2025 Fcst | Change | Percent |
|---|---|---|---|---|---|
| Adult | Felony | 46,340 | 45,308 | -1,032 | -2.2% |
| | Murder | 285 | 232 | -53 | -18.6% |
| | Jessica's Law | 222 | 178 | -44 | -19.8% |
| | Measure 11 | 3,948 | 3,963 | 15 | 0.4% |
| | Major Felony | 7,967 | 8,192 | 225 | 2.8% |
| | Minor Felony | 33,919 | 32,744 | -1,175 | -3.5% |
| | Misdemeanor | 93,243 | 95,597 | 2,354 | 2.5% |
| | Probation Violation | 27,343 | 27,906 | 563 | 2.1% |
| | Treatment Court | 1,866 | 1,850 | -16 | -0.8% |
| | Appellate | 3,565 | 3,516 | -49 | -1.4% |
| | Post-Conviction Relief | 672 | 572 | -100 | -14.9% |
| | Habeas Corpus | 210 | 370 | 160 | 76.0% |
| | Civil Commitment | 5,496 | 5,453 | -43 | -0.8% |
| | **Total** | **178,735** | **180,571** | **1,836** | **1.0%** |
| Juvenile | Dependency† | 17,726 | 18,890 | 1,163 | 6.6% |
| | Delinquency‡ | 6,718 | 6,140 | -578 | -8.6% |
| | Probation Violation | 42,523 | 4,118 | -135 | -3.2% |
| | Treatment Court | 338 | 353 | 15 | 4.4% |
| | Appellate | 683 | 629 | -54 | -7.9% |
| | **Total** | **29,718** | **30,130** | **411** | **1.4%** |
| **Total New Eligible Cases** | | **208,453** | **210,701** | **372** | **1.1%** |

† Includes Parents and Guardians
‡ Includes Measure 11, Murder, and All Others

While case credits under the MAC funding model are awarded at the time of appointment, public defense cases do not open and close on a biennial schedule. For instance, a case that is filed on the last day of a biennium will continue into the next. In this case, the MAC credit will be assigned to the biennium in which the case was filed and assigned to a public defender, even though the vast majority of the work will occur in the following biennium. As of the close of the 2023-25 biennium, OPDC providers reported 41,874 cases that remained open at the start of the 2025-27 biennium. While these cases are not counted towards 2025-27 MAC, they do represent an existing workload and thus impact attorneys' ability to take new cases. Similarly, OPDC will continue to incur Preauthorized Expenses (PAE) and/or Court-Managed Expenses (CME) on cases assigned in the previous biennium, as the work on those cases spans biennia.

**Table 18. Forecasted vs. Actual Appointments Estimate**

| | Case Type | Oct 2025 DAS OEA Forecast | Contract Distinct Cases FY26 Q1 | OPDC† Distinct Cases FY26 Q1 | Hourly Distinct Cases FY26 Q1 | 2025 Q1 Cases Reported Total | 2025-27 Projection |
|---|---|---|---|---|---|---|---|
| Adult | Felony | 45,308 | 4,542 | 253 | 862 | 5,657 | 45,256 |
| | Murder | 178 | 25 | 4 | 7 | 36 | 288 |
| | Jessica's Law | 232 | 20 | 1 | 16 | 37 | 296 |
| | Measure 11 | 3,963 | 474 | 25 | 88 | 587 | 4,696 |
| | Major Felony | 8,192 | 819 | 53 | 198 | 1,070 | 8,560 |
| | Minor Felony | 32,744 | 3,204 | 170 | 553 | 3,927 | 31,416 |
| | Misdemeanor | 95,597 | 10,837 | 263 | 1,314 | 12,414 | 99,312 |
| | Probation Vio | 27,906 | 3,043 | 44 | 205 | 3,292 | 26,336 |
| | Treatment Court | 1,850 | 955 | 6 | 4 | 965 | 7,720 |
| | Appellate | 4,149 | 63 | 343 | 11 | 417 | 3,336 |
| | Post-Conviction | 572 | 47 | - | 5 | 52 | 416 |
| | Habeas Corpus | 190 | 33 | - | 10 | 43 | 344 |
| | Civ Commitment | 5,453 | 908 | - | 20 | 928 | 7,424 |
| | **Total** | **180,571** | **20,428** | **909** | **2,431** | **23,768** | **190,144** |
| Juvenile | Dependency | 18,890 | 1,167 | - | 39 | 1,206 | 9,648 |
| | Delinquency | 6,140 | 653 | - | 147 | 800 | 6,400 |
| | Probation Vio | 4,118 | 133 | - | 5 | 138 | 1,104 |
| | Treatment Court | 353 | 6 | - | - | 6 | 48 |
| | Appellate | 629 | 24 | 72 | - | 96 | 768 |
| | **Total** | **30,130** | **1,983** | **72** | **191** | **2,246** | **17,968** |
| **Total Adult & Juv** | | **210,701** | **22,411** | **981** | **2,622** | **26,014** | **208,112** |

†OPDC denotes both the Oregon Trial Division and the Appellate Division. Appellate cases were handled by the Appellate Division; all other OPDC cases were taken by the Oregon Trial Division.

Table 18 compares DAS OEA forecasted statewide caseload numbers to OPDC caseload data, which consists of case data reported to OPDC by various types of providers during the first quarter of the 2025-27 biennium. It is important to note that Table 18 compares data from different sources that do not necessarily align in all respects; however, the comparison is useful as it provides an initial examination of how actuals compare to forecasted values.[3] As such, this data should be considered supplementary to the DAS OEA forecast and should not be used to make formal caseload predictions, as the table and its

[3] The following methods were used to populate this data: (i) for *provider contracts* analysts determined the distinct count of cases as reported to OPDC for the months of July, August, and September 2025 with an appointment date (open date for PCRP) between 7/1/25 and 9/30/25. If a case was reported by multiple attorneys, then the case is counted once and categorized by the first case type it was reported as; (ii) *Oregon Trial Division* data is the distinct count of cases assigned to Oregon Trial Division attorneys between 7/1/25 and 9/30/25 as recorded in Clio based on the recorded case type as of 9/30/25. OTD does not currently accept appellate or juvenile cases; (iii) *hourly* case data utilizes three data sources: (a) cases assigned by OPDC assignment coordinators with an effective date between 7/1/25 and 9/30/25, (b) cases billed to OPDC for hourly attorney fees with an appointment date between 7/1/25 and 9/30/25 that were not assigned by OPDC assignment coordinators, and (c) OJD case data to identify any additional hourly cases taken by attorneys that do no show up in (a) or (b). The final source of hourly case data has been shown to slightly undercount the number of hourly cases, so the overall total of hourly cases in Table 17 should be viewed with some caution. This is particularly true for juvenile and criminal hourly cases.

results are merely an internal tracking tool used by the agency to provide indications of instances where there may be a departure from the DAS OEA forecast that the agency may need to address from a capacity standpoint.

The data in Table 18 indicate that, at least for adult cases, new appointment projections are similar to those found in the DAS OEA forecast, with the most significant points of departure being found for misdemeanors, treatment court cases, and civil commitment cases. At least some of these incongruencies, however, are likely due to the reliance on different data sources. There is a larger variance for juvenile cases overall. This, as previously noted, is likely due to the undercounting of juvenile hourly cases. As OPDC gains more experience with the forecast and internal OPDC data collection improves (see *Intervention Two* above), these comparisons will become more accurate and valuable for tracking whether and how the case filings align with the forecast.

## Cost Per Case

In October, OPDC agency staff presented preliminary results of a cost per case analysis to its Commissioners, with the goal of socializing initial efforts to estimate these costs and to solicit feedback from Commissioners and providers on the underlying methodologies and results of the preliminary analysis. The report detailed the methodologies used to develop the cost per case results, the myriad challenges and data concerns identified by agency researchers, and reported the initial cost estimates for capacity contractors, hourly providers, and the OPDC Trial Division. More specifically, across those three domains, costs were broken down into attorney costs, investigation costs, preauthorized expenses, and court-mandated expenses. The analysis relied on provider-reported data, billing data, and data from the April 2025 DAS OEA Caseload Forecast. Following substantial feedback on this presentation, OPDC agency staff are working to refine the analysis and update the data sources used, particularly by using the October 2025 DAS OEA Caseload Forecast.

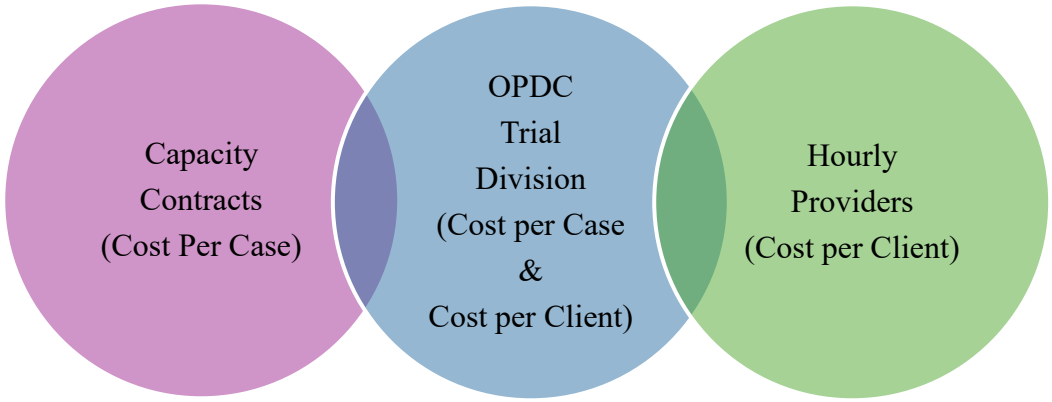


Figure 9. Comparability of Case Results Across Domains

While effort in this area has been substantial and initial estimates have been developed, significant data issues may affect the usefulness of this endeavor as it progresses. First, based on historical data-collection practices, comparisons across all three domains —capacity contractors, hourly providers, and the OPDC Trial Division —are not yet possible. Specifically, for capacity contractors, current data supports only the calculation of *cost per case* , while billing data for hourly providers supports only the calculation of *cost per client*. Importantly, the cost per client may include more than a single case, making direct comparisons between capacity contracts and hourly providers not possible. As shown in Figure 9, the agency possesses data for its Trial Division that permits it to calculate both cost per case and cost per client. So, while comparisons between capacity contracts and hourly providers are not possible, each could be compared—through different analytical assessments—with the OPDC Trial Division.

The leading cause of this incongruence is that the agency currently relies on historical data that was not originally designed to calculate cost per case. Rather, the data used was created for other purposes and driven by different motivations before the commencement of this effort. Bearing this challenge in mind—which cannot be resolved until data collection practices change—the agency is continuing to refine its cost per case analyses based on the feedback received and will continue to report results in future legislative reports.

## BIENNIAL FINANCIAL FORECAST

Table 19 provides the biennial financial forecast for OPDC. The forecast column shows the projections if current spending continues for the remainder of the biennium. Also provided is an assessment of divisions with significant variances.

**Table 19. OPDC Biennial Financial Forecast by Agency Division**

| Division | | LAB | Forecast | Variance |
|---|---|---|---|---|
| 1. | Administrative Services Division | $38,380,364 | $43,044,778 | ($4,664,414) |
| 2. | Adult Trial Division | $330,688,123 | $312,055,890 | $18,632,233 |
| 3. | Juvenile Trial Division | $52,810,615 | $55,246,701 | ($2,436,086) |
| 4. | Parent Child Representation Program | $58,422,417 | $56,975,199 | $1,447,218 |
| 5. | Appellate Division | $28,826,029 | $30,723,651 | ($1,897,622) |
| 6. | Compliance, Audit, Performance | $8,645,518 | $9,683,647 | ($1,038,129) |
| 7. | Court Mandated Expenses | $69,942,027 | $60,937,604 | $9,004,423 |
| 8. | Debt Service | $2,392,223 | $2,392,223 | $0 |
| 9. | Executive | $3,356,449 | $3,505,352 | ($148,903) |
| 10. | Preauthorized Expenses | $102,459,670 | $100,126,144 | $2,333,526 |
| 11. | Special Programs | $11,414,014 | $11,414,014 | $0 |
| 12. | Trial Representation | $18,090,808 | $20,552,995 | ($2,462,187) |
| **Total** | | $725,428,257 | $706,658,198 | $18,770,059 |

1. **Administrative Services.** Presently, the Administrative Services Division is projected to be over budget due to (i) unbudgeted Oregon Department of Justice (DOJ) charges for legal services following the shift from internal general counsel to reliance on the DOJ as the agency's counsel on all

legal matters; (ii) unbudgeted enterprise IT charges; (iii) a built-in cost-of-living increase impacting staff salaries, and (iv) the temporary coverage of expenditures associated with the Financial Case Management System (FCMS). The final source of the overage will be resolved once FCMS receives bond funding in the spring of 2026, as at that time all appropriate FCMS expenditures will be moved from this budget to the FCMS "other fund" budget resulting from the bond sale.

2. **Adult Trial Division**. Projections in this budget category rely on three assumptions: (i) that the DAS OEA Public Defense Caseload Forecast as of April 2025 is accurate; (ii) that OPDC appropriately contracted with providers to meet the DAS OEA forecast; and (iii) that contract providers meet a 90 percent MAC utilization threshold. This division currently forecasts a large amount of unallocated funds based on the three preceding assumptions. Additional needs, however, have been identified and will result in contract adjustments going forward. For instance, caseload impacts to Civil Commitments tied to House Bill 2005 (2025) were not included in the April 2025 forecast, so a portion of the unallocated funds will be shifted to this area. Additional flexibility will also be beneficial as the agency moves through the biennium to meet changing needs in representation. This area continues to be monitored through monthly reassessments and quarterly revisions as warranted by the forecast and provider-reported caseload data. As of the release of this report, the agency has only benefited from one reporting period under the revamped 2025-27 contracts.

3. **Juvenile Trial Division**. Projections in this budget category rely on three assumptions: (i) that the DAS OEA Public Defense Caseload Forecast as of April 2025 is accurate; (ii) that OPDC appropriately contracted with providers to meet the DAS OEA forecast; and (iii) that contract providers meet a 90 percent MAC utilization threshold. The Juvenile Trial Division is currently projecting an overage. The DAS OEA forecast projected a significant reduction in juvenile cases, particularly in a few jurisdictions across the state. Due to the substantial changes in OPDC's 2025-27 contracts, the agency took a more moderate approach to those caseload reductions to ensure that an unrepresented crisis in the juvenile sector does not materialize. Further, OPDC elected to use provider contracts for some attorneys who previously handled hourly cases, aiming to shift those cases away from the more expensive hourly program. Finally, federal Title IV-E reimbursements have fallen short of projections, suggesting fewer qualifying expenditures to date. It is important to note, however, that as of the release of this report, the agency has only benefited from one reporting period under the revamped 2025-27 contracts, as well as only one quarter of data on federal Title IV-E reimbursements.

4. **Parent Child Representation Program**. Projections in this budget category rely on three assumptions: (i) that the DAS OEA Public Defense Caseload Forecast as of April 2025 is accurate; (ii) that OPDC appropriately contracted with providers to meet the DAS OEA forecast; and (iii) that contract providers meet a 90 percent MAC utilization threshold. The Parent Child Representation Program projection currently shows a small amount of unallocated funds, but, as stated above, it is too early in the contracting period to draw concrete conclusions. Also, similar to the Juvenile Trial Division discussion above the first draw of federal Title IV-E funds were lower than expected, indicating fewer qualifying expenditures.

5. **Appellate Division:** The Appellate Division budget projection reports an overage, which is attributable to built-in cost-of-living increases impacting staff salaries.

6. **Compliance, Audit, and Performance**. The Compliance, Audit, and Performance Division is forecasting an overage due to unprojected Oregon Department of Justice expenditures, increased staff position expenditures from new hires at a rate higher than the current budget, and a built-in cost-of-living increase impacting staff salaries.

7. **Court Mandated Expenses.** The Court Mandated Expenses budget shows a modest amount of unallocated funding. Currently, hourly contractor invoices are growing at a modest pace, and the rate of growth does not appear concerning from a budget perspective. The agency is still incurring expenses attributable to the Temporary Hourly Increase Program (THIP), which stopped taking new cases after June 30, 2025. Initially, invoices for THIP expenditures came in at a very high rate during the first few months of the biennium but have since trailed off and appear to be decreasing at a consistent rate. Invoice submission rates are actively being monitored, and agency researchers are utilizing DAS OEA forecast data to project the expected wind-down of this program.

8. **Debt Service.** Current projects are consistent with the LAB.

9. **Executive Division**. The Executive Division currently projects an overage attributable to unbudgeted attorney general expenditures and a built-in cost-of-living increase impacting staff salaries.

10. **Preauthorized Expenses**. The Preauthorized Expenses budget currently projects a modest amount of unallocated funding relative to the program's size. Notably, THIP expenditure was initially incurred at a very high rate for the first few months of the biennium. This initial trend has abated, and invoice submissions tied to THIP cases have been decreasing at a consistent rate, which has since figured into budget projections in this area.

11. **Special Programs.** Current projects are consistent with the LAB.

12. **Trial Representation Division**. The Trial Representation Division budget currently projects an overage, primarily due to built-in cost-of-living increases and higher personnel expenses tied to hiring positions at rates above budget.

# Oregon Public Defense Commission

**Financial & Case Management System Update**

December 5, 2025

**Kenneth Sanchagrin, Interim Executive Director**
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**David Martin, CIO, FCMS**

Oregon Public Defense Commission

FCMS December 2025

# Agenda

- CONTRACT AWARD STATUS
- SCHEDULE
- ACCOMPLISHMENTS
- UPCOMING MILESTONES
- BUDGET

FCMS December 2025

# Implementation Planning Phase Approval & Procurement Status

**Procurement:**
Leadership elected to award a contract and to enter into Phase 3 (Contract Negotiations and Execution). OPDC's Chief Procurement Officer, with concurrence of the Dept of Justice, drafted and served the protesting proposer with a Notice of Final Disposition denying the protest. The proposer has an *option* to seek judicial review through the date OPDC executes a contract.

**Implementation Planning:**
Enterprise Data Model work to organize and document the data migration planning continues which includes preliminary data mapping. Gap Analysis work resumes to round out identified requirements that need further clarification and additional use case development. Use Cases for main agency divisions are completed. Change Management training needs mapping work resumes.

## FCMS December 2025

# Procurement Schedule

**Phase 2: Potential for Judicial Review of Contract Award Protest Disposition** Protesting proposer has the ***option*** to seek judicial review until the contract is approved by the Office of the Attorney General and executed by OPDC.
Begins October 2025.

**Phase 3: Contract Negotiations Initiated**
Contract negotiations begin in November 2025

**Contract Review**
Nov 17, 2025, thru Mar 4, 2026

**SOW Development Completion** Jan 26, 2026
Project Management plan included

**Licensing, Maintenance, and Hosting work**
Nov 2025 thru Jan 6, 2026

**Today**

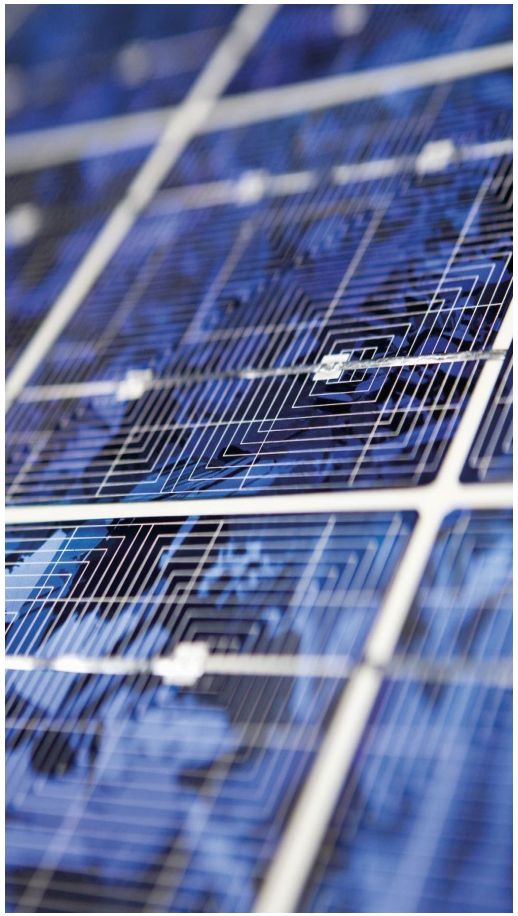
| OCTOBER 2025 | NOVEMBER 2025 | DECEMBER 2025 | JANUARY 2026 | FEBURARY 2026 | MARCH 2026 | APRIL 2026 |
|---|---|---|---|---|---|---|

# Accomplishments

Updates to the Requirements Traceability Matrix (RTM) that links the completed process flows and use cases to the applicable requirements is completed for all agency divisions that have been documented up to this point.

**Procurement Phase 3:** Leadership elected to award a contract and to enter into Phase 3 (Contract Negotiations and Execution). OPDC's Chief Procurement Officer, with concurrence of the Dept of Justice, drafted and served the protesting proposer with a Notice of Final Disposition denying the protest. The proposer has the *option* to seek judicial review through the date OPDC executes a contract. Negotiations began with Round 1 documents in review by the Negotiations Team. Comments are due by December 3rd.

**Change Management:** Completed first draft of the initial training needs mapping by documenting training groups by role, department, and FCMS-related functions and processes. Sent position descriptions for Change Champions and Change Sponsors to confirm continued interest in serving in these roles (based on those who previously volunteered).



FCMS December 2025

# Upcoming Milestones

## 01

Business and Technical Documentation of Compliance, Data, and Reporting processes. Gap analysis for “orphan” requirements not currently linked to completed process flows / use cases.

## 02

Phase 3: Contract Negotiations continue. Round 1 began with OPDC's review of SOW format and interim OPDC Project Management Plan. Proposer reviewed OPDC comments and submitted a draft to OPDC on Nov 20th. Round 1 documents are in review by OPDC negotiation team. Comments are due by Dec 3rd.

## 03

Implementation Planning document revision continues for Scope, Schedule, Budget Alignment. Training Strategy being developed.

## FCMS December 2025

# Budget

LFO Financial FCMS meeting was held on 11/6.

Budget Manager will coordinate a meeting with DAS CFO and FCMS Budget Team to go over Bond Fund Spending Plan etc.

Bond Funding planning work for the 25/27 biennium is in progress and Spending Plan work will begin.

# Thank you

Oregon Public Defense Commission