Members:

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

Oregon Public Defense Commission

Nonvoting Members:

Rep. Paul Evans
Sen. Floyd Prozanski

Interim Executive Director:

Kenneth Sanchagrin

Oregon Public Defense Commission
Meeting will occur virtually.
Wednesday, August 20, 2025
9:00 AM – approx. 1:00 PM PST
*Via Zoom**

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

AGENDA

Approx. Time	Item	Lead(s)
9:00-9:05	Welcome	Chair Nash
9:05-9:20	Public Comment	
9:20-9:30	**Update:** Unrepresented Persons in Oregon Courts: Attorney Shortage	Ken Sanchagrin Adrian Manriquez
9:30-9:45	**Update:** Budget	Ralph Amador
9:45-10:15	**Briefing:** Travel Expense Scenarios	Ralph Amador
10:15-10:25	**Briefing:** 2025 Commission KPM Survey	Susan Mandiberg
10:25-10:50	**Briefing:** Criminal Attorney Performance Standards	Steve Arntt
10:50-11:00	****Break****	
11:00-12:00	**Discussion:** Feedback on Draft Contracts	Chair Nash

12:00-12:15	**Update:** Legislative	Lisa Taylor
12:15-12:25	**Update:** Director's Update	Ken Sanchagrin
N/A	**Update:** FCMS	None- Report Only
1:00pm (Approximately)	****Adjourn****	

**To join the Zoom meeting, click this link https://zoom.us/j/93024005198. 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: ***September 17, 2025, 9am – 1pm in-person at Marion County and 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.

Key Insights

Unrepresented Trends

The total number of unrepresented persons and unrepresented cases decreased July 1, 2025, with 3,798 unrepresented persons and 4,150 unrepresented cases – the third straight month of decline (Figure 1 and Figure 2). Since August 1, 2024, the number of unrepresented persons has increased 15% and the number of unrepresented cases has increased 14%. Daily updates are available on the Unrepresented Dashboard on the OJD website.

More cases exited the unrepresented list in June 2025 than any month in the past 12 months (Figure 3). However, there was an increase in both the number of cases entering and exiting the unrepresented list since May 2025.

Unrepresented – Out of Custody

The average number of days a person with an out-of-custody felony case is unrepresented continues to increase to an average of 134 days in June 2025. The average number of days an out-of-custody misdemeanor is unrepresented decreased slightly to an average of 81 days (Figure 4).

Unrepresented – In Custody

The average number of days a person is unrepresented and in custody on any case increased to an average of 20 days in June 2025 (Figure 5).

Criminal Case Filings

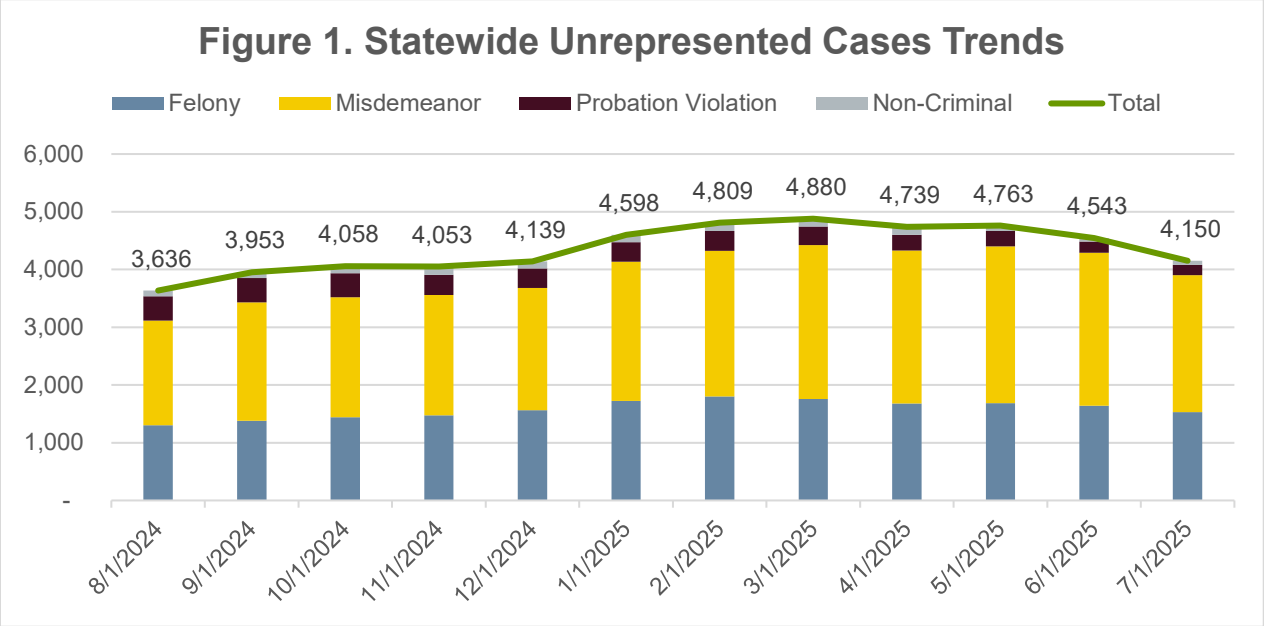
Criminal case filings decreased 5.3% from May 2025 to 5,499 criminal cases filed in June 2025. (Figure 6).

Unrepresented by County

Multnomah, Washington, Jackson, Marion, Douglas, Coos, and Klamath counties continue to have the highest number of unrepresented persons in Oregon (Figure 7). All but Klamath saw a decrease in the number of unrepresented persons between June 1 and July 1, 2025. Clackamas County saw an increase in unrepresented cases in the last week of June due in part to delays in finalizing the contract extension; however, their numbers have since decreased significantly.

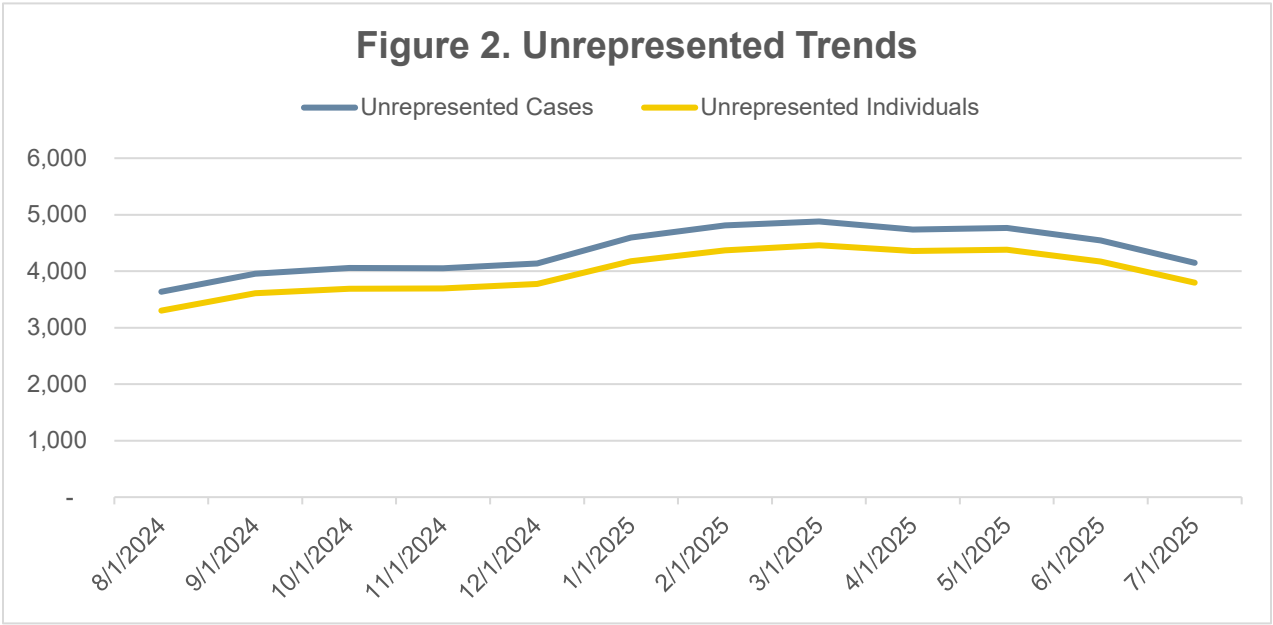
Unrepresented Trends

Figure 1 shows the number of unrepresented cases by case type. The number of unrepresented cases decreased to 4,150 cases on July 1, 2025, an 8.7% decrease since June 1, 2025. This marks the second month in a row where the overall statewide number of unrepresented cases decreased.



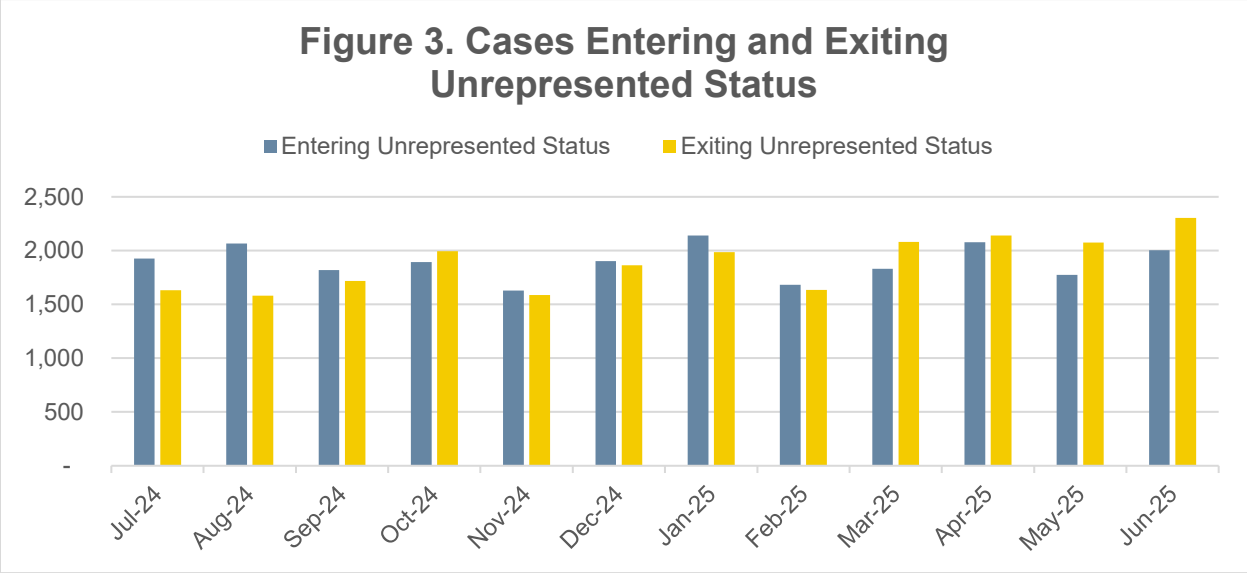
Source: OJD Odyssey Data (eCourt).

Figure 2 shows the number of unrepresented cases and unrepresented individuals. The number of unrepresented individuals decreased to 3,798 individuals on July 1, 2025, an 8.9% decrease from June 1, 2025.



Source: OJD Odyssey Data (eCourt).

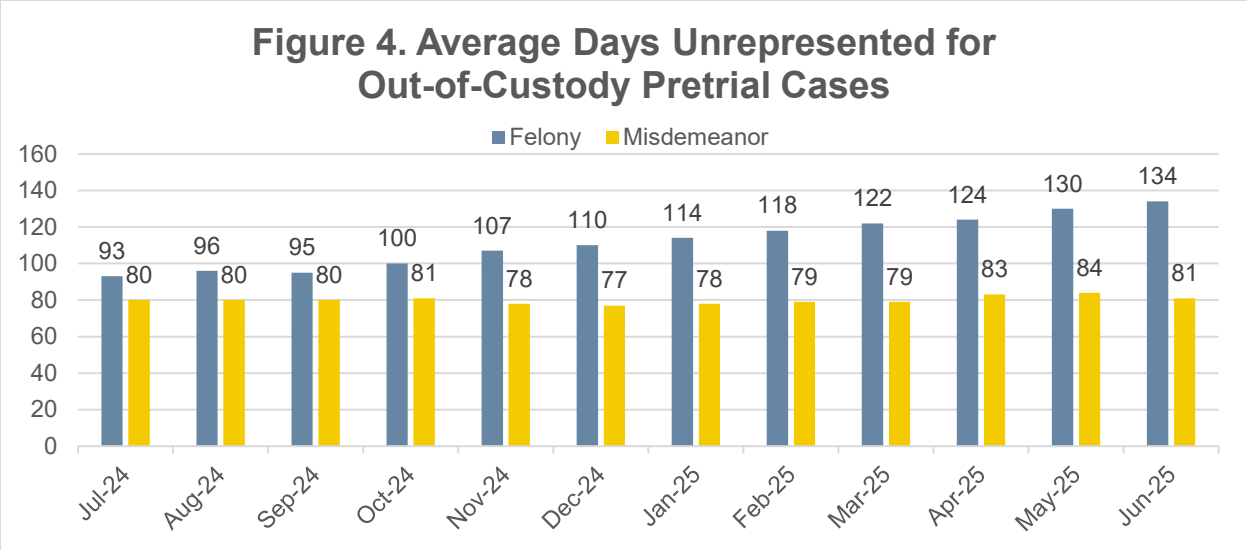
Figure 3 shows the number of cases entering and exiting the unrepresented list each month. For the fourth month in a row more cases exited the unrepresented list than entered. The number of cases exiting the unrepresented list increased between May 2025 and June 2025; however, the number of cases added to the unrepresented list also increased.



Source: OJD Odyssey Data (eCourt).

Unrepresented – Out of Custody

Figure 4 shows trends in the average days an out-of-custody felony or misdemeanor case is unrepresented by month. The average number of days an out-of-custody felony is unrepresented has increased every month for the past ten months, reaching a new high of an average of 134 days. The average continues to increase because older cases on the unrepresented list continue to age and have not been appointed counsel. The average days an out-of-custody misdemeanor is unrepresented decreased to an average of 81 days.

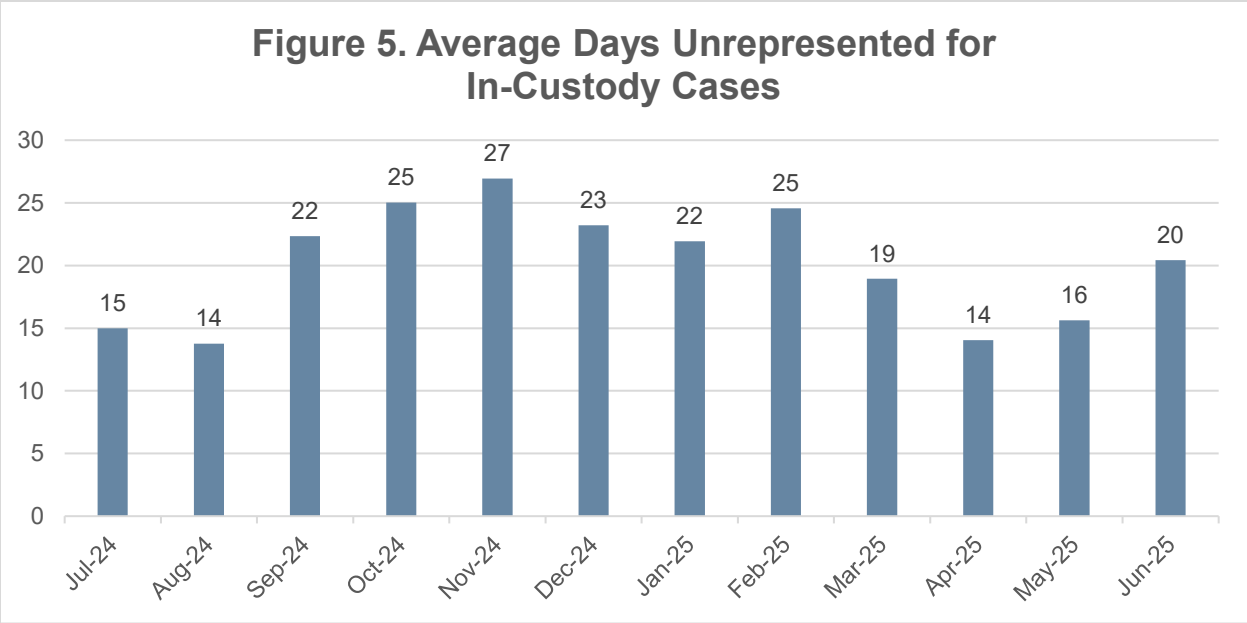


Source: OJD Odyssey Data (eCourt).

Unrepresented – In Custody

Figure 5 shows trends in the average number of days a person is both in custody and is unrepresented in any case. The average number of days a person is unrepresented and in custody on any case increased to an average of 20 days in June 2025.

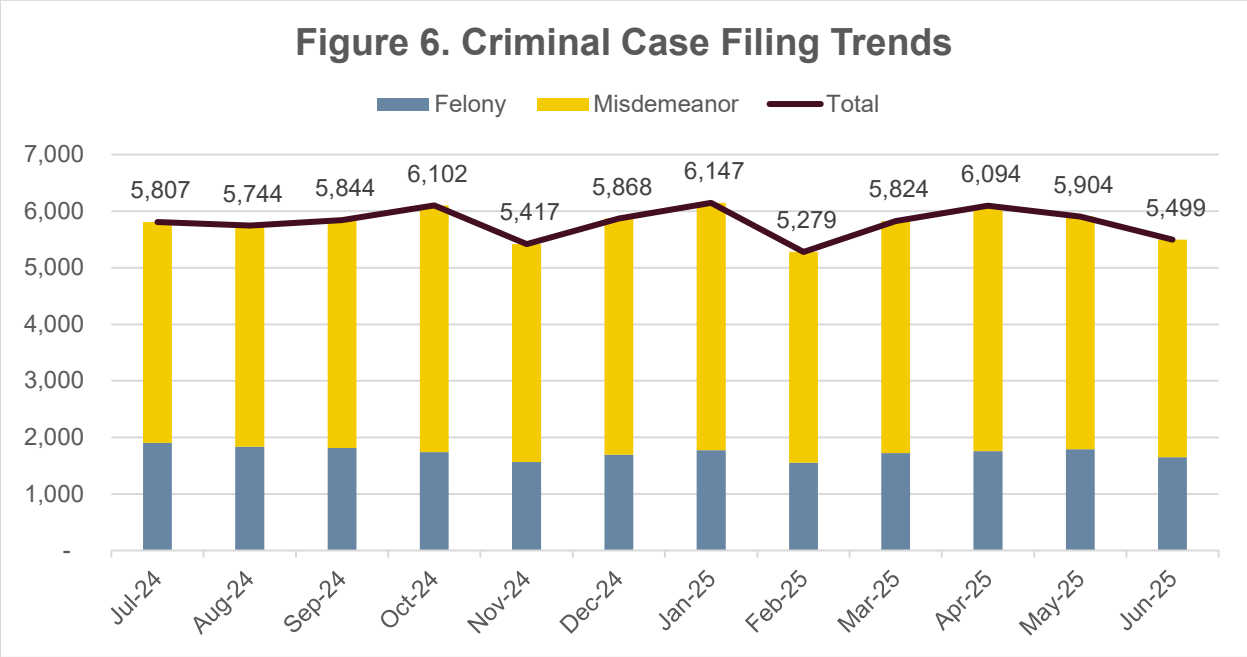
This chart primarily consists of people who are in custody and are unrepresented either on that in-custody case, another in-custody case, or an out-of-custody case. Because of the variety of circumstances in which being represented and unrepresented in different cases can occur while a person is in custody,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



Source: OJD Odyssey Data (eCourt).

Criminal Case Filings

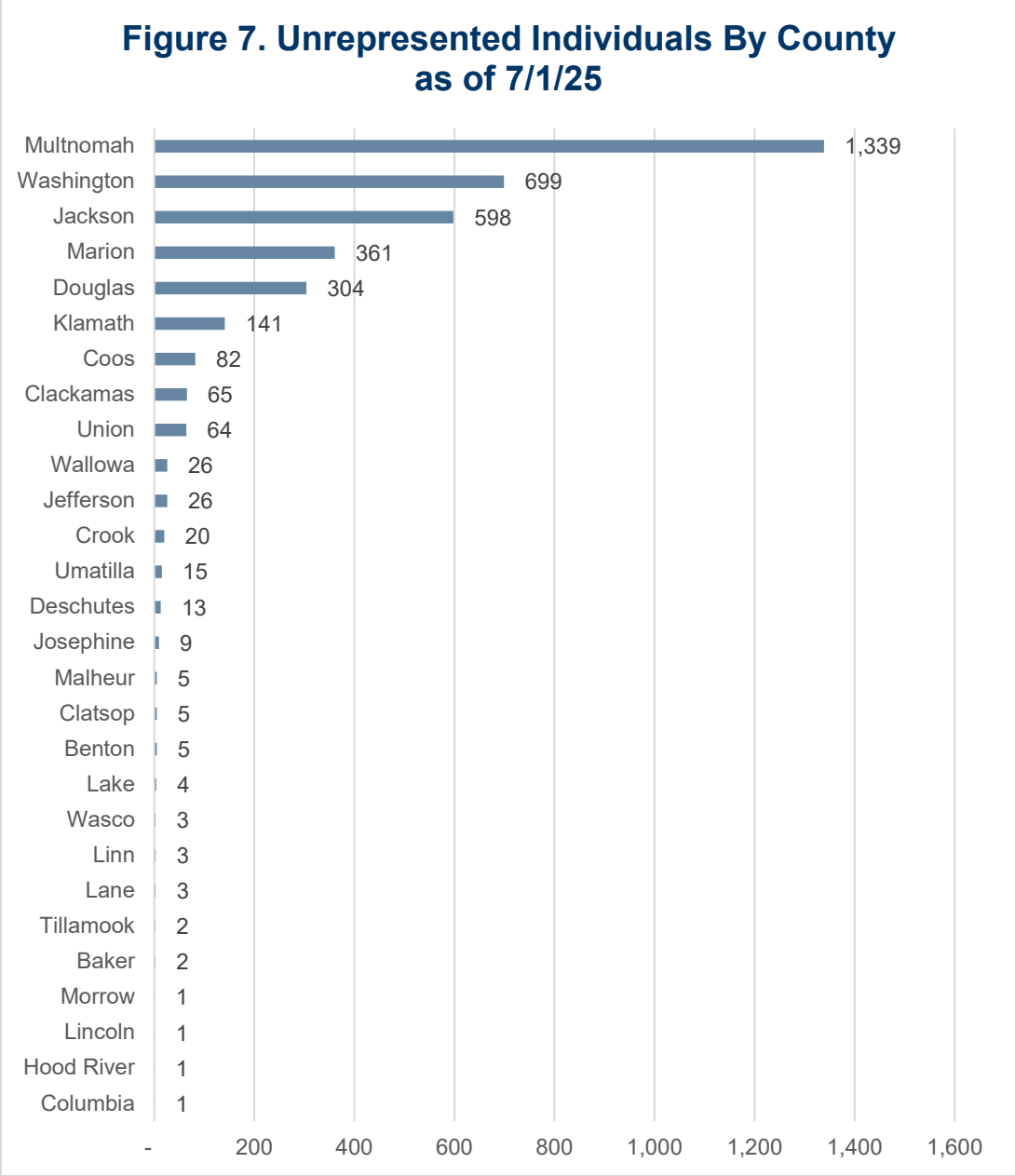
Figure 6 shows the criminal case filing trends since July 2024. The number of criminal cases filed in June 2025 decreased to 5,499 cases, a 5.3% decrease since July 2024.



Source: OJD Odyssey Data (eCourt).

Unrepresented by County

Figure 7 shows the number of unrepresented persons by county as of July 1, 2025. Multnomah, Washington, Jackson, Marion, Douglas, Coos, and Klamath counties continue to have the highest numbers of unrepresented persons, although most of them saw significant declines in their unrepresented population. Clackamas saw an increase in unrepresented persons at the end of June, due in part to delays in finalizing the contract extension between OPDC and the local consortium. Once the extension was in place, the consortium was able to quickly assign attorneys and on July 17, Clackamas had five unrepresented cases (excluding cases in active warrant status). Klamath saw a 41% increase in unrepresented persons between June 1, 2025, and July 1, 2025. The cause is not immediately clear.



Source: OJD Odyssey Data (eCourt).

Oregon Public Defense Commission

Date: **August 20, 2025**

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

Cc: **Ken Sanchagrin, Executive Director**

From: **Steve Arntt, Trial Support & Development Manager**

Re: **Draft Criminal Attorney Performance Standards**

Nature of Presentation: Briefing

Background:

ORS 151.216, as amended by Senate Bill 337 (2023), sets out the duties of the Oregon Public Defense Commission. Subsection (1)(j) of that statute requires that OPDC:

> 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.

In 2014, an Oregon State Bar (OSB) task force published Specific Standards for Representation in Criminal and Juvenile Delinquency Cases. The OSB standards are robust, but not specific to public defense practice.

To fulfill the legislative mandate, OPDC began drafting public defense specific performance standards across all OPDC funded practice areas. The Trial Support and Development (TS&D) Division convened provider workgroups to assist in drafting the performance standards. TS&D workgroups included attorneys who were currently practicing public defense work and provided valuable assistance to OPDC's Resource Counsel in drafting the standards.

OPDC intends to introduce the practice area standards to this Commission over the coming months. The attached draft Criminal Performance Standards are the first to come before the Commission for review; OPDC expects to follow these with delinquency, dependency, and various quasi-criminal standards. The drafting committee drew heavily from the OSB Criminal Standards. The draft standards have two components: black letter expectations and best practices. Best practices are aspirational goals, with the understanding that not all best practices can be achieved in all cases.

Purpose:

OPDC intends to use the proposed performance standards to improve attorney practice throughout the state, assess the validity of complaints made against providers, and ensure clients are receiving effective representation.

Ongoing Revisions:

TS&D is briefing the Commission concurrently with posting the standards for broader feedback from the provider community. Provider comment will close on September 15, 2025. After that feedback is incorporated, the standards will be brought back before the Commission for approval.

Fiscal Impact: No immediate impacts. OPDC hopes to invest in targeted oversight and training to ensure all eligible clients are receiving high quality representation.

Agency Proposed Motion: None.

Criminal Attorney Performance Standards (DRAFT)

July 2025

Table of Contents

Standards for Representation in Criminal 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 criminal 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 Standards for Representation in Criminal and Juvenile Delinquency Cases. OPDC has adopted those standards to make them specific to criminal casework and has added language that reflects evolving standards of practice. Each standard sets a baseline for practice of appointed defense work and is followed by best practices that supplement the baseline standards. OPDC recognizes that in any given case, some standards might be inapplicable or even mutually exclusive; OPDC acknowledges that to practice law, exceptions to these baseline rules must apply in certain situations.

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

STANDARD 1.1 – ROLE OF DEFENSE COUNSEL

The lawyer for a defendant in a criminal case should provide quality and zealous representation at all stages of the case, advocating at all times for the client's expressed interests. The lawyer should be familiar with applicable statutes, caselaw, and local court practices, and should stay aware of changes and developments in the law. The lawyer shall abide by the Oregon Rules of Professional Conduct and applicable rules of court.

Best Practices:

1. In abiding by the Oregon Rules of Professional Conduct, 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.

2. 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.

3. 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 including any alternative courses of actions to accomplish the client's goal. A lawyer should consult with the client regarding the assertion or waiver of any right or position of the client.

4. 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.

5. An attorney assigned to actively assist a *pro se* criminally accused person should be apprised about the matter and prepared to accept representation in the matter to the extent that the circumstances of the case allow if ethically permissible. OPDC understands that there is inherent difficulty in taking over a case from a *pro se* litigant and maintaining the current case timelines.

STANDARD 1.2 – EDUCATION, TRAINING AND EXPERIENCE OF DEFENSE COUNSEL

A. A lawyer must be familiar with the applicable substantive and procedural law, and its application in the jurisdiction where counsel provides representation. 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 criminal cases.

B. Prior to handling a criminal matter, a lawyer must have sufficient experience or training to provide quality representation. Prior to accepting appointment in a criminal case, a lawyer must be certified for that case type by OPDC.

Best Practices:

1. In order to remain proficient in the law, court rules and practice applicable to criminal cases, a lawyer should regularly monitor the decisions of Oregon and pertinent Federal appellate courts and the work of the Oregon State Legislature.

2. Lawyers should maintain membership in state and national organizations that focus on educating and training lawyers in criminal law. Lawyers should subscribe to professional listservs, consult available online resources, and attend continuing legal education programs relating to the practice of criminal law. A lawyer practicing criminal law should complete an average of at least 10 hours of continuing legal education training in criminal law each year.

3. A lawyer practicing criminal law should become familiar non-penal consequences of criminal convictions such as those affecting immigration status, driving privileges, public benefits, sex offender registration, residency restrictions, student financial aid, opportunities for military service, professional licensing, firearms possession, DNA sampling, HIV testing, among others. They should pay particular attention to the basics of immigration law pertinent to the possible immigration consequences of a criminal conviction for noncitizen clients.

4. Before undertaking representation in a criminal case, a less experienced lawyer should obtain training in the relevant areas of practice and should consult with others in the field, including nonlawyers. Less experienced lawyers should observe or serve as co-counsel to more experienced lawyers prior to accepting sole responsibility for more complex criminal cases. More experienced lawyers should mentor less experienced lawyers.

5. A lawyer providing representation in criminal cases should be familiar with key agencies and services typically involved in those cases, such as the Oregon Department of Corrections, local community corrections programs, the Department of Human Services, private treatment facilities and programs, along with other services and programs available as dispositional alternatives to detention and custody.

6. A lawyer for indigent defendants should be familiar with services available to clients who are unhoused, unable to provide for their own food, or are in need of other social services.

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

8. Lawyers representing youth who have been waived into the criminal system should have specialized training and experience in defending juveniles, and training and experience required to handle serious criminal cases. Lawyers representing youth waived into the adult criminal system must be familiar with adolescent brain development, the impact of trauma on emotional and neurological development, and be trained in communicating with youth in a developmentally appropriate manner. Lawyers representing youth in adult criminal proceedings should be prepared to present mitigating information about their clients as necessary and appropriate, including emotional, social, and neurological development specific to the adolescent client.

STANDARD 1.3 – OBLIGATIONS OF DEFENSE COUNSEL REGARDING WORKLOAD

Before accepting appointment as counsel, a lawyer has an obligation to ensure that they have sufficient time, resources, knowledge, and experience to offer quality representation to a defendant in a criminal 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.

Best Practices:

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

2. 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. 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.

STANDARD 2.1 – OBLIGATIONS OF DEFENSE COUNSEL AT INITIAL APPEARANCE

A lawyer must be familiar with the law regarding initial appearance, arraignment, and detention. At the initial court appearance in a criminal case, a lawyer should inform the client of the offenses alleged in the charging instrument, and assert and preserve pertinent statutory and constitutional rights of the client on the record. Lawyers should seek release for incarcerated clients at the first appearance.

Best Practices:

1. A lawyer should promptly conduct client conflict checks.

2. A lawyer should always endeavor to meet with and interview clients in advance of their first appearance.

3. A lawyer should be familiar with the local practice regarding case docketing and processing so that the lawyer may inform the client regarding expected case events and

the dates for upcoming court appearances.

4. A lawyer should be prepared to preserve the client's rights and demand due process, whether that is a not guilty plea or a demand for preliminary hearing, or request for some other further proceeding. A lawyer should make clear that the defendant reserves the following rights in the present matter and any other matter:

    a. Right to remain silent under State and Federal Constitutions;
    b. Right to counsel under State and Federal Constitutions;
    c. Right to file challenges to the charging instrument or petition;
    d. Right to file challenges to the evidence;
    e. Right to be notified of and testify at any proceeding before the Grand Jury;
    f. Right to file notices of affirmative defenses; and
    g. Right to a speedy trial.

5. A lawyer should be prepared to object to the court's failure to comply with the law regarding the initial appearance process, such as the statute requiring an ability to confer confidentially with the client during a video arraignment.

6. A lawyer should obtain all relevant documents and orders that pertain to the client's initial appearance.

7. A lawyer may waive formal reading of the allegations and advice of rights by the court, providing the lawyer advises the client what rights are waived, the nature of the charges, and the potential consequences of relinquishing rights. Prior to waiving formal reading of the charges the lawyer should assure that the client can read the charging instrument or has had it read to them.

8. If the adjudicatory judge is assigned at the initial appearance, the lawyer should be familiar with the law and local practice for filing motions to disqualify a judge, discuss this with the client, and be prepared to timely file appropriate documents challenging an assigned judge.

9. Lawyers should seek release of incarcerated clients at the initial appearance in accordance with standard 2.3.

STANDARD 2.2 – CLIENT CONTACT AND COMMUNICATION

A lawyer must conduct a client interview as soon as practicable after representation begins and thereafter establish a procedure to maintain regular contact with the client in order to explain the allegations and nature of the proceedings, meet the ongoing needs of the client, obtaining necessary information from the client, consult with the client about decisions affecting the course of the defense, conduct a conflict check, and respond to requests from the client for information or assistance concerning the case. For clients who are in custody, the initial interview should take place no more than 2 business days after assignment to the attorney. For out of custody clients, initial outreach to schedule an initial interview should occur no more than 3 business days after assignment to the attorney.

Best Practices:

1. A lawyer should provide a clear explanation, in developmentally appropriate language and using an interpreter as needed, of the role of both the client and the lawyer, and demonstrate appropriate commitment to the client's expressed interests in the outcome of the proceedings. A lawyer should elicit the client's point of view and encourage the client's full participation in the defense of the case.

2. The initial interview should be in person, in a private setting that allows for a confidential conversation.

3. At the initial meeting, the lawyer should review the charges facing the client and be prepared to discuss the necessary elements of the charges, the procedure the client will be facing in subsequent court appearances, possible sentences if convicted, and should inquire if the client has any immediate needs regarding securing evidence or obtaining release.

4. Prior to all meetings, the lawyer should:

    a. Be familiar with the elements of the charged offense(s) and the potential punishment(s);
    b. Obtain copies of any relevant documents that are available including any charging documents, recommendations and reports made by agencies concerning pretrial release 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;

d. If a client is in custody, be familiar with the different types of pretrial release conditions the court may set and whether private or public agencies are available to act as a custodian for the client's release.

5. During an initial interview with the client, a lawyer should:

    a. Obtain information concerning:
        i. The client's ties to the community, including the length of time they have lived at current and former addresses, family relationships, immigration status (if applicable), employment record and history;
        ii. The client's history of service in the military, if any;
        iii. The client's physical and mental health, educational, and military service records;
        iv. The client's immediate medical needs, if any;
        v. The client's past criminal record, if any, including arrests and convictions for adult and juvenile offenses and prior record of court appearances or failure to appear in court; counsel should also determine whether the client has any pending charges and also whether he or she is on probation or parole and the client's past or present performance under supervision;
        vi. The ability of the client to meet any financial conditions of release;
        vii. The names of individuals, or other sources, that counsel can contact to verify the information provided by the client; and the client's permission to contact these individuals;
    b. Provide to the client information including but not limited to:
        i. An explanation of the procedures that will be followed in setting the conditions of pretrial release;
        ii. An explanation of the type of information that will be requested in any interview that may be conducted by a pretrial release agency and also an explanation that the client should not make statements concerning the offense;
        iii. An explanation of the lawyer-client privilege and instructions not to talk to anyone about the facts of the case without first consulting with the lawyer;
        iv. The charges and the potential penalties, as well as potential collateral consequences, of any conviction and sentence;
        v. A general procedural overview of the progression of the case, where possible;

vi. Advice that communication with people other than the defense team is not privileged and, if the client is in custody, may be monitored.

6. A lawyer should use any contact with the client as an opportunity to gather timely information relevant to preparation of the defense. Such information may include, but is not limited to:

    a. The facts surrounding the charges against the client;
    b. Any evidence of improper police investigative practices or prosecutorial conduct that affects the client's rights;
    c. Any possible witnesses who should be located;
    d. Any evidence that should be preserved, specifically including video recordings that might be overwritten;
    e. Where appropriate, evidence of the client's competence to stand trial and mental state at the time of the offense.

7. Frequency and Manner of Client Contact
    a. Lawyers should endeavor to maintain contact with their client at least monthly or as client's communication and availability allows.
    b. As much as possible, visits should be in person. Video visits are acceptable. For sensitive or confidential discussions, the attorney should take reasonable steps to ensure privacy with the client. Lawyers should be aware of when there is a possibility that meetings with clients will be recorded or overheard. Letters to clients are not a substitute for client visits.
    c. Lawyers should conduct client meetings that are culturally sensitive and developmentally appropriate for each individual client.

STANDARD 2.3 – RELEASE OF CLIENT

A. A lawyer has a duty to seek release from custody or detention of clients under the conditions most favorable and acceptable to the client. Additionally, the lawyer must ensure the client understands the terms and conditions of release.

B. Release should be sought at the earliest possible opportunity and if not successful a lawyer should continue to seek release at appropriate subsequent hearings.

Best Practices:

1. Where the client is not able to obtain release under the conditions set by the court, counsel should consider pursuing modification of the conditions of release under the procedures available.

2. Where the client is incarcerated and unable to obtain pretrial release, counsel should alert the court and jail to any special medical or psychiatric and security needs of the client and request that the court order the appropriate officials to take steps to meet such special needs as required.

3. In all cases, but especially in cases listed in ORS 135.240 (2) and (4), the lawyer should discuss the release process with their client. The lawyer should discuss the advantages and disadvantages that can be gained from having a release hearing including the possibility of taking witness testimony and presenting evidence which can be used at later stages of the case. The lawyer should abide by the client's decision whether or not to request a release hearing.

4. The lawyer should review the documents supporting probable cause and, if appropriate, challenge any finding of probable cause.

5. If the court will not consider release at initial appearance, the lawyer should request a release hearing and decision within the statutory time requirements.

6. At any release hearing, the lawyer should be familiar with the statutory criteria for release and be prepared to address those release factors on the record.

7. In preparation for a release hearing the lawyer should discuss statutory release criteria with the client and be prepared to address the court regarding these factors including residence, employment, compliance with release conditions such as no contact with victims and any release compliance monitoring.

8. If the client is subject to release on security, the lawyer should be familiar with the rules and requirements to post security, including procedures for client "self-bailing" with funds from an inmate account, posting a security interest in property, or third-party posting requirements.

STANDARD 3.1 – INVESTIGATION

A lawyer has the duty to conduct an independent review of the case, regardless of the client's admissions or statements to the lawyer of facts constituting guilt or the client's stated desire to plead guilty or admit guilt. 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 trial or hearing, and to best advise the client as to the possibility

and consequences of conviction or adverse adjudication. 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.

Best Practices:

1. A lawyer should obtain copies of all charging documents and should examine them to determine the specific charges that have been brought against the client and the elements of each charge.

2. A lawyer should conduct an in-depth interview with the client as described in Standard 2.2. Subsequent interviews with the client should be used to identify, at minimum:

    a. Additional sources of information concerning the incidents or events giving rise to the charges and to any defenses;
    b. Evidence concerning improper conduct or practices by law enforcement, juvenile authorities, mental health departments, or the prosecution, which may affect the client's rights or the admissibility of evidence;
    c. Information relevant to the court's jurisdiction;
    d. Information relevant to pretrial or prehearing release and possible pretrial or prehearing disposition; and
    e. Information relevant to sentencing or disposition and potential consequences of conviction or adverse adjudication.

3. A lawyer should consider whether to interview potential witnesses, whether adverse, neutral, or favorable, and when new evidence is revealed during the course of witness interviews, the lawyer should locate and assess its value to the client. Witness interviews should be conducted by an investigator or in the presence of a third person who will be available, if necessary, to testify as a defense witness at the trial or hearing. When speaking with third parties, the lawyer has a duty to comply with the Oregon Rules of Professional Conduct, including Rule 3.4 (Fairness to Opposing Party and Counsel), 4.1 (Truthfulness in Statements to Others), 4.2 (Communication with Person Represented by Counsel), and 4.3 (Dealing with Unrepresented Persons). The lawyer also has a duty to comply with statutory rights of victims, such as those in ORS 135.970(2) and (3).

4. A lawyer should attempt when reasonable to have their investigator interview all law enforcement officers involved in the arrest and investigation of the case and should obtain all pertinent information in the possession of the prosecution, juvenile

authorities, or law enforcement, including, where relevant, law enforcement personnel records and documentation of prior officer misconduct. In cases involving child witnesses or victims, the lawyer should seek records of counseling sessions with those children. The lawyer should pursue formal and informal discovery with authorities as described in Standard 4.1.

5. Where appropriate, a lawyer should inspect the scene of the alleged offense under circumstances (including weather, lighting conditions, and time of day) as similar as possible to those existing at the time of the alleged incident. Lawyers should always bring their investigator or another third party who can testify as needed in order to avoid the lawyer making themselves a witness.

6. A lawyer should obtain prior criminal offense and juvenile records of the client and witnesses, and where appropriate their school, mental health, medical, drug and alcohol, and immigration records.

7. 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.

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

STANDARD 3.2 – EXPERTS

A lawyer should immediately and continually evaluate the need for experts in the case and should attempt to obtain any necessary expert for either consultation or testimony or both. A lawyer must be aware of available experts that may be needed to properly litigate their case. A lawyer has a duty to be familiar with the process to request funding for experts from OPDC.

Best Practices:

1. Lawyers should consider using engagement letters for any expert used on their case which clearly outline the lawyer's expectations of the expert, privilege rules, and an understanding of the expert's duty of confidentiality.

2. A lawyer should be aware of the appeals process in the event that OPDC denies funding the lawyer believes is reasonably required for the case.

3. A lawyer should be familiar with the available experts in fields that routinely arise in criminal

cases and should have an available professional network to assist in evaluating and obtaining needed experts.

4. Lawyers should independently evaluate the quality of an expert prior to engagement and should consider any evidence that would be available to the prosecution to impeach that expert. Lawyers should review this evaluation regularly, even with often used experts.

5. A lawyer should understand the difference between an expert used to advise the defense team and an expert used to testify and know how to assure that an advisory expert does not unintentionally shift to a testimonial expert and require disclosure to the prosecution.

6. A lawyer should adequately prepare all trial experts for testimony, including likely questions on cross-examination.

STANDARD 4.1 – DISCOVERY

A lawyer has the duty to pursue formal and informal discovery in a prompt fashion and to continue to pursue opportunities for discovery throughout the case. A lawyer must be familiar with all applicable statutes, rules and case law governing discovery, including those concerning the processes for filing motions to compel discovery or to preserve evidence, as well as those making sanctions available when the prosecution has engaged in discovery violations.

Best Practices:

1. 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.

2. A lawyer should make a prompt and comprehensive demand for discovery pursuant to applicable rules and constitutional provisions and should continually seek all information to which the client is entitled, especially any exculpatory, impeaching and mitigating evidence. Discovery should include, but is not limited to, the following:

    a. Potentially exculpatory, impeaching and mitigating information;
    b. Law enforcement reports and notes, 911 recordings and transcripts, inter-officer transmissions, dispatch reports, body camera recordings, and reports or notes of searches or seizures and the circumstances in which they were accomplished;

c. Written communications, including emails, between prosecution, law enforcement, and witnesses;
d. Names and addresses of prosecution witnesses, their prior statements, their prior criminal records and their relevant digital, electronic and social media postings;
e. Oral or written statements by the client and the circumstances under which those statements were made;
f. The client's prior criminal or juvenile record and evidence of any other misconduct that the prosecution may intend to use against the client;
g. Copies of, or the opportunity to inspect books, papers, documents, photographs, computer data, tangible objects, buildings or places, and other material relevant to the case;
h. Results or reports of physical or mental examinations, and of scientific tests or experiments, and the data and documents on which they are based;
i. Statements and reports of experts and the data and documents on which they are based; and
j. Statements of co-defendants.

3. A lawyer should file motions seeking to preserve evidence where it is at risk of being destroyed or altered.
4. Lawyers should not rely on discovery to provide all information in the case and should not assume that prosecutors are compliant with discovery obligations unless the lawyer has verified the compliance.

STANDARD 4.2 – THEORY OF THE CASE

A lawyer should develop and continually reassess a theory of the client's case that advances the client's goals and encompasses the realities of the client's situation.

Best Practices:

1. A lawyer should use the theory of the case when evaluating strategic choices throughout the course of the representation.

2. A lawyer should be able to concisely explain the theory of the case to a lay person.

3. A lawyer should allow the theory of the case to focus the investigation and trial or hearing preparation, seeking out and developing facts and evidence that the theory makes material.

4. A lawyer should remain flexible enough to modify or abandon the theory if it does not serve the client.

STANDARD 5.1 – PRETRIAL MOTIONS AND NOTICES

A lawyer should research, prepare, file, and argue appropriate pretrial motions and notices whenever there is reason to believe 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.

Best Practices:

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. The pretrial custody of the accused;
    b. The competency or fitness to proceed the accused (see Standard 5.3);
    c. The constitutionality of relevant statutes;
    d. Whether there are any jurisdictional defects;
    e. Potential defects in the charging process or instrument, including statutes of limitation;
    f. The sufficiency of the charging document;
    g. The severance of charges and co-defendants for trial;
    h. Change of venue;
    i. The propriety and prejudice of any joinder of charges or defendants in the charging instrument.
    j. The removal of a judicial officer from the case through requests for recusal or the filing of an affidavit of prejudice;
    k. The discovery obligations of both the prosecution and the defense, including:
        1) Motions for protective orders;
        2) *Brady v. Maryland* motions
        3) *Cartwright* motions; and
        4) Motions to compel discovery.
    l. Violations of federal and state constitutional or statutory provisions,

including:

1) Illegal searches and seizures;
2) Involuntary statements or confessions;
3) Statements obtained in violation of the right to counsel or privilege against self-incrimination;
4) Unreliable identification evidence;
5) Unreliable scientific or pseudoscientific evidence;
6) Speedy trial rights; and
7) Double jeopardy protections.

m. Requests for, and challenges to denial of, funding for access to reasonable and necessary resources and experts;
n. The Defendant's right to a speedy trial;
o. The right to a continuance in order to adequately prepare and present a defense or to respond to prosecution motions;
p. Matters of trial evidence that may be appropriately litigated by means of a pretrial motion *in limine*, including:
    1) The competency or admissibility of particular witnesses, including experts and children;
    2) The use of prior convictions for impeachment purposes;
    3) The use of prior or subsequent bad acts;
    4) The use of reputation or other character evidence; and
    5) The use of evidence subject to "rape shield" and similar protections.
q. Notices of affirmative defenses and other required notices to present particular evidence;
r. The dismissal of charges on the basis of a civil compromise, in the furtherance of justice and the general equitable powers of the court.

3. Before deciding not to file a motion or to withdraw a motion already filed, a lawyer should consult with their client and carefully consider all facts in the case, applicable law, case strategy, and other relevant information, including:
    a. The burden of proof, the potential advantages and disadvantages of having witnesses testify under oath at pretrial hearings and to what extent a pretrial hearing reveals defense strategy to a client's detriment;
    b. Whether a pretrial motion may be necessary to protect the client's rights against later claims of waiver, procedural default or failure to preserve an issue for later appeal;
    c. The effect the filing of a motion may have upon the client's speedy trial rights; and
    d. Whether other objectives, in addition to the ultimate relief requested by a

motion, may be served by the filing and litigation of a particular motion.

STANDARD 5.2 – FILING AND ARGUING PRETRIAL MOTIONS

A lawyer should file all pretrial motions in a timely fashion, should have knowledge of local court rules and should comport with those rules to the extent possible. A lawyer should prepare for a motion hearing much as they would prepare for trial, including preparing for the presentation of evidence, exhibits and witnesses.

Best Practices:

1. Motions should succinctly inform the court of the authority relied upon.

2. When a hearing on a motion requires taking evidence or when the taking of evidence is advantageous to the client's position, a lawyer's preparation should include:

    a. Investigation, discovery, and research relevant to the claims advanced;
    b. Subpoenaing all helpful evidence and witnesses including those also subpoenaed by the Prosecution;
    c. Preparing witnesses to testify; and
    d. Fully understanding the applicable burdens of proof, evidentiary principles and court procedures, including the costs and benefits of having the client or other witnesses testify and be subject to cross examination;
    e. A consideration of the record being made for the purposes of trial in addition to the underlying motion.

3. After a hearing during which evidence is taken an attorney should request the FTR recording of the hearing and have transcriptions made.

4. A lawyer should consider the strategy of submitting proposed findings of fact and conclusions of law to the court at the conclusion of the hearing.

5. After an adverse ruling, a lawyer should consider seeking interlocutory relief, if available, taking necessary steps to perfect an appeal and renewing the motion or objection during trial to preserve the matter for appeal.

STANDARD 5.3 – DETERMINING A CLIENT'S FITNESS TO PROCEED

A lawyer must be able to recognize when a client may not be competent to stand trial due to mental health disorders, developmental immaturity, or developmental and intellectual disabilities and take appropriate action. The lawyer's responsibility to evaluate and recognize their client's competence is ongoing throughout the case. Lawyers must take appropriate action to address client's competency as soon as possible.

Best Practices:

1. A lawyer should assess whether the client's level of functioning limits his or her ability to communicate effectively with counsel, as well as his or her ability to have a factual and rational understanding of the proceedings.

2. When a lawyer has reason to doubt the client's competency to stand trial, the lawyer should request funding for a retained psychological examination of the client as well as gather collateral information related to the client's mental health. The lawyer should consider filing a pretrial motion requesting a competency evaluation only if a private evaluation cannot be obtained.

3. Lawyers should seek prior psychological examinations of the client as well as other records relating to their client's prior commitments, mental health evaluations, or diagnoses. Lawyers may use those records at the lawyer's discretion in any proceeding relating to the client's ability to aid and assist in their own defense.

4. The right to be able to aid and assist in their own defense is a core right of the client. If a lawyer has reason to doubt their client's fitness to proceed the lawyer has an obligation to take appropriate action to determine the client's fitness. If a lawyer has concerns regarding a client's capacity the lawyer must consider and, if possible, discuss with their client:

    a. Their obligations, under Oregon Rule of Professional Conduct 1.14, to maintain a normal attorney-client relationship, to the extent possible, with a client with diminished capacity; and
    b. The likely consequences of a finding of incompetence and whether there are other ways to resolve the case, such as dismissal upon obtaining services for the client or referral to other agencies.

5. If the lawyer decides to proceed with a competency hearing, he or she should secure the services of a qualified expert in accordance with Standard 3.2.

6. If a court finds a client incompetent to proceed, a lawyer should advocate for the least restrictive level of supervision and the least intrusive treatment available that will restore the client to fitness.

7. Lawyers should endeavor to be present with the client at any evaluation of the client done by anyone other than the lawyer's retained expert. Lawyers may be present by virtual or telephonic means.

8. Lawyers should keep up to date with developments concerning the Oregon State Hospital, federal litigation involving the State's handling of clients found unfit to proceed, and any legislative changes to the statutory framework of fitness.

9. If a court finds a client is competent to proceed, a lawyer should continue to raise the matter during the course of the proceedings if the lawyer has a concern about the client's continuing competency to proceed and in order to preserve the matter for appeal.

STANDARD 5.4 – CONTINUING OBLIGATIONS TO FILE OR RENEW PRETRIAL MOTIONS OR NOTICES

During trial or subsequent proceedings, a lawyer should be prepared to raise any issue which is appropriately raised pretrial but could not have been so raised because the facts supporting the motion were unknown or not reasonably available. Counsel should also be prepared to renew a pretrial motion if new supporting information is disclosed in later proceedings.

STANDARD 6.1 – EXPLORING DISPOSITION WITHOUT TRIAL

A lawyer has the duty to explore with the client the possibility, advisability, and consequences of reaching a negotiated disposition of charges or a disposition without trial. A lawyer has the duty to be familiar with the laws, local practices, and consequences concerning dispositions without trial. A lawyer cannot accept any negotiated settlement or agree to enter into any non-trial disposition without the client's express authorization.

Best Practices:

1. A lawyer should explore and consider restorative justice options, civil compromise,

diversion, having the case filed as a juvenile delinquency or dependency case, alternative dispositions including conditional postponement, motion to dismiss in the interest of justice, negotiated pleas or disposition agreements, and other non-trial dispositions.

2. A lawyer should explain to the client the strengths and weaknesses of the prosecution's case, the benefits and consequences of considering a non-trial disposition, any investigation which has been or could be conducted, and discuss with the client any options that may be available to the client and the rights the client gives up by pursuing a non-trial disposition.

3. A lawyer should assist the client in weighing whether there are strategic advantages to be gained by taking a plea or continuing to trial.

4. With the consent of the client, a lawyer should explore with the prosecutor available options to resolve the case without trial. The lawyer should obtain information about the position the prosecutor will take as to non-plea dispositions and recommendations that will be made about sentencing or disposition. Throughout negotiation, a lawyer must zealously advocate for the expressed interests of the client, including advocating for some benefit for the client in exchange for a plea.

5. A lawyer must keep the client fully informed of continued negotiations and convey to the client any offers made by the prosecution. The lawyer must attempt to ensure that the client has adequate time to consider the plea and alternative options. A lawyer should advise client's about their opinion of any plea offers but may not substitute their judgement for that of their client.

6. A lawyer should continue to take steps necessary to preserve the client's rights and advance the client's defenses even while engaging in settlement negotiations.

7. Before conducting negotiations, a lawyer should be familiar with:

    a. The types, advantages, disadvantages, and applicable procedures and requirements of available pleas, including a plea or admission of guilty, no contest, a conditional plea or admission of guilt that reserves the right to appeal certain issues, trial by stipulation of facts, and a plea or admission in which the client is not required to acknowledge guilt (*Alford* plea);
    b. Whether agreements between the client and the prosecution would be binding on the court or on the prison, juvenile, parole and probation, and immigration

authorities; and

c. The practices and policies of the particular prosecuting authorities and judge that may affect the content and likely results of any negotiated settlement.

8. A lawyer should be aware of, advise the client of, and, where appropriate, seek to mitigate the following, where relevant:

    a. Rights that the client would waive when entering a plea or admission disposing of the case without trial;
    b. The minimum and maximum term of incarceration that may be ordered, including whether the minimum disposition would be indeterminate, possible sentencing enhancements, probation or post-confinement supervision, alternative incarceration programs, earned time credits, and credit for pretrial detention;
    c. The client's presumptive sentence under the sentencing guidelines if applicable;
    d. The minimum and maximum fines and assessments, court costs that may be ordered as well options for waiving, deferring, or paying fines by installments, and any restitution that is being requested by the victim(s);
    e. Arguments to eliminate or reduce fines, assessments and court costs, challenges to liability for and the amount of restitution, the possibilities of civil action by the victim(s), asset forfeiture, and the availability of work programs to pay restitution and perform community service;
    f. Consequences relating to previous offenses;
    g. The availability and possible conditions of, probation, parole, suspended sentence, work release, conditional leave and earned release time;
    h. The availability and possible conditions of deferred sentences, conditional discharges, alternative dispositions and diversion agreements;
    i. For non-citizen clients, the possibility of adverse immigration consequences;
    j. For non-citizen clients, the possibility of criminal consequences of illegal re-entry following conviction and deportation;
    k. The possibility of other consequences of conviction, such as:
        1) Requirements for sex offender registration, relief and set-aside;
        2) DNA sampling, AIDS and STD testing;
        3) Loss of civil liberties such as voting and jury service privileges;
        4) Effect on driver's or professional licenses and on firearms possession;
        5) Loss of public benefits;
        6) Loss of housing, education, financial aid, career, employment, vocational, or military service opportunities; and

7) Risk of enhanced sentences for future convictions.

l. The possible place and manner of confinement, placement, or commitment;

m. The availability of pre-and post-adjudication diversion programs and treatment programs;

n. Standard sentences for similar offenses committed by offenders with similar backgrounds.

9. A lawyer should identify negotiation goals with the following in mind:

a. Concessions that the client might offer to the prosecution, including an agreement:

1) Not to dispute the merits of some or all of the charges;
2) Not to assert or litigate certain rights or issues;
3) To fulfill conditions of restitution, rehabilitation, treatment or community service; and
4) To provide assistance to law enforcement in investigating and prosecuting other alleged wrongful activity.

b. Benefits to the client, including an agreement:

1) That the prosecution will recommend a reduced sentence upon conviction compared with the likely sentence after conviction at trial.
2) That the prosecutor will accept a plea to a lesser charge or dismiss remaining charges upon a plea.
3) That the prosecution will refile allegations in juvenile court and will not contest juvenile court jurisdiction;
4) That the prosecution will not oppose release pending sentence, disposition or appeal;
5) That the client may reserve the right to contest certain issues;
6) To dismiss or reduce charges immediately or upon completion of certain conditions;
7) That the client will not be subject to further investigation or prosecution for uncharged conduct;
8) That the client will receive, subject to the court's agreement, a specified set or range of sanctions;
9) That the prosecution will take, or refrain from taking, a specified position with respect to sanctions, and that the prosecution will not present preparation of a pre-sentence report, or in determining the client's date of release from confinement; and
10) That the client will receive, or that the prosecution will recommend, specific benefits concerning the place and manner of confinement, conditions of parole or probationary release and the provision of pre-

or post-adjudication treatment programs.

10. A lawyer has the duty to inform the client of the full content of any tentative negotiated settlement or non-trial disposition, and to explain to the client the advantages, disadvantages, and potential consequences of the settlement or disposition.
11. A lawyer should not recommend that the client enter a dispositional plea or admission unless an appropriate investigation and evaluation of the case has taken place, including an analysis of controlling law and the evidence likely to be introduced if the case were to go forward.

STANDARD 6.2 – ENTRY OF DISPOSITIONAL PLEA OR ADMISSION

A decision to enter a plea resolving the charges, or to admit the allegations, rests solely with the client. A lawyer must not unduly influence the decision to enter a plea and ensure that when a client enters a plea it is done voluntarily. Counsel must ensure the client has an intelligent understanding of the terms, conditions, and consequences of the plea, including what rights the clients will forfeit.

Best Practices:

1. A Lawyer has the duty to be familiar with local detention practices as well as statewide detention practices such as time served calculations, work release, alternatives to incarceration, etc.

2. A lawyer has a duty to explain to the client the advantages, disadvantages and consequences of resolving the case by entering a dispositional plea or by admitting the allegations.

3. A lawyer has the duty to explain to the client the nature of the hearing at which the client will enter the plea and the role that the client will play in the hearing, including participating in the colloquy to determine voluntary waiver of rights and answering other questions from the court and making a statement concerning the offense. The lawyer should explain to the client that the court may in some cases reject the plea.

4. If during the plea hearing, the client does not understand questions being asked by the court, the lawyer should request a recess to assist the client.

STANDARD 7.1 – GENERAL TRIAL PREPARATION

A. A trial is a complex event requiring preparation, knowledge of applicable law and procedure, and skill. A defense lawyer must be prepared on the law and facts and competently plan a challenge to the state's case and, where appropriate, presentation of a defense case.

B. The decision to proceed to trial with or without a jury rests solely with the client. The lawyer should discuss the relevant strategic considerations of this decision with the client.

C. A lawyer should develop, in consultation with the client and members of the defense team, an overall defense strategy for the conduct of the trial.

D. A lawyer must, in advance of trial, subpoena necessary witnesses, and develop outlines or plans for opening, closing, anticipated cross examinations, and direct examinations.

Best Practices:

1. 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;
    c. Voir dire questions;
    d. Outline or draft of opening statement;
    e. Cross-examination plans for all possible prosecution witnesses;
    f. Direct examination plans for all prospective defense witnesses;
    g. Copies of defense subpoenas;
    h. Prior statements of all prosecution witnesses (e.g., transcripts, police reports);
    i. Prior statements of all defense witnesses;
    j. Reports from experts;
    k. The CVs of any experts expected to testify at trial;
    l. Training and other available records for any law enforcement offers who are expected to testify;
    m. A list of all exhibits and the witnesses through whom they will be introduced;
    n. Originals and copies of all documentary exhibits;
    o. Proposed jury instructions with supporting authority;
    p. Copies of all relevant statutes and cases;
    q. Evidence codes and relevant statutes and compilations of evidence rules and

criminal or juvenile law most likely to be relevant to the case;

r. Outline or draft of closing argument; and
s. Trial memoranda outlining any complex legal issues or factual problems the court may need to decide during the trial.

2. A lawyer should be fully informed as to the rules of evidence, the law relating to all stages of the trial process and be familiar with legal and evidentiary issues that can reasonably be anticipated to arise in the trial. The lawyer should analyze potential prosecution evidence for admissibility problems and develop strategies for challenging evidence. The lawyer should be prepared to address objections to defense evidence or testimony. The lawyer should be prepared to raise affirmative defenses as applicable. The lawyer should consider requesting that witnesses be excluded from the trial.

3. A lawyer should evaluate whether expert testimony is necessary and beneficial to the client. If so, the lawyer should seek an appropriate expert witness and prepare the witness to testify, including possible areas of cross examination.

4. A lawyer should decide if it is beneficial to secure an advance ruling on issues likely to arise at trial (e.g., use of prior convictions to impeach the defendant) and, where appropriate, the lawyer should prepare motions and memoranda for such advance rulings.

5. Throughout the trial process, 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.

6. A lawyer should advise the client as to suitable courtroom dress and demeanor. If the client is incarcerated, a lawyer should be alert to the possible prejudicial effects of the client appearing before the jury in jail or other inappropriate clothing and should take steps to secure appropriate court clothing for client.

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

8. Throughout preparation and trial, a lawyer should consider the potential effects that particular actions may have upon sentencing if there is a finding of guilt. A lawyer

should discuss the risks of those actions with their client.

9. As soon as practicable after appointment, a lawyer should consider whether the assistance of a co-counsel, associate counsel, or second chair would be beneficial to the client or required by OPDC and, if so, attempt to obtain approval for the same as soon as possible.

STANDARD 7.2 – VOIR DIRE AND JURY SELECTION

A. A lawyer should be prepared to question prospective jurors and to identify individual jurors whom the defense should challenge for cause or exclude by preemptory strikes.

B. A lawyer should carefully observe the prosecutor's questioning of jurors to inform defense challenges for cause and use of preemptory challenges and to object if the prosecutor is attempting to exclude jurors for impermissible reasons.

Best Practices:

1. A lawyer should be familiar with the procedures by which a jury is selected in the particular jurisdiction and should be alert to any potential legal challenges to the composition or selection of the venire.

2. A lawyer should be familiar with the local practices and the individual trial judge's procedures for selecting a jury and should be alert to any potential legal challenges to these procedures.

3. A lawyer should be familiar with the local culture and local issues that may impact the views of potential jurors.

4. Prior to jury selection, a lawyer should seek to obtain a prospective juror list and should consider the use of a jury questionnaire.

5. A lawyer should develop voir dire questions in advance of trial and tailor voir dire questions to the specific case. Among other purposes, voir dire questions should be designed to serve the following:

    a. To elicit information about the attitudes of individual jurors which will provide the basis for peremptory strikes and challenges for cause;
    b. To convey to the panel certain legal principles which are critical to the defense case;

c. To preview the case for the jurors to lessen the impact of damaging information which is likely to come to their attention during the trial;
d. To present the client and the defense case in a favorable light, without prematurely disclosing information and the defense case to the prosecutor; and
e. To establish a good relationship with the jury.

6. A lawyer should be familiar with the law concerning mandatory and discretionary voir dire inquiries to be able to defend any request to ask particular questions of prospective jurors.

7. A lawyer should be familiar with the law concerning challenges for cause and peremptory strikes.

8. If the voir dire questions may elicit sensitive answers, a lawyer should consider requesting that questioning be conducted outside the presence of the remaining jurors.

9. A lawyer should challenge for cause all prospective jurors about whom an argument can be made for actual prejudice or bias if it is likely to benefit the client.

10. A lawyer should be familiar with the requirements for preserving appellate review of any defense challenges for cause that have been denied.

11. Where appropriate, the lawyer should consider whether to seek expert assistance in the jury selection process.

12. When possible, a lawyer should endeavor to have assistance for note taking and juror research before and during the voir dire process.

STANDARD 7.3 – OPENING STATEMENT

An opening statement is a lawyer's first opportunity to present the defense case. The lawyer should be prepared to present a coherent statement of the defense theory based on evidence likely to be admitted at trial, and should raise and, if necessary, preserve for appeal any objections to the prosecutor's opening statement.

Best Practices:

1. Prior to delivering an opening statement, a lawyer should ask that the witnesses be

excluded from the courtroom, unless a strategic reason exists for not doing so.

2. A lawyer's objective in making an opening statement should include the following:

    a. Provide an overview of the defense case emphasizing the defense theme and theory of the case;
    b. Identify the weaknesses of the prosecution's case;
    c. Emphasize the prosecution's burden of proof;
    d. Summarize the testimony of witnesses and the role of each witness in relationship to the entire case;
    e. Describe the exhibits which will be introduced and the role of each exhibit in relationship to the entire case;
    f. Clarify the jurors' responsibilities;
    g. State the ultimate inferences which the lawyer wishes the jury to draw; and
    h. Humanize the client.

3. A lawyer should listen attentively during the state's opening statement to raise objections and note potential promises of proof made by the state that could be used in summation.

4. A lawyer should consider incorporating the promises of proof the prosecutor makes to the jury during opening statement or in the defense summation.

5. Whenever the prosecutor oversteps the bounds of a proper opening statement, a lawyer should consider objecting, requesting a mistrial, or seeking cautionary instructions, unless tactical considerations weigh against any such objections or requests. Such tactical considerations may include, but are not limited to:
    a. The significance of the prosecutor's error;
    b. The possibility that an objection might enhance the significance of the information in the jury's mind;
    c. Whether there are any rulings made by the judge against objecting during the other attorney's opening argument.
6. A lawyer should give an opening statement in all cases whether to a bench or to the jury. Lawyers may consider deferring opening statements until the beginning of the defense case.

STANDARD 7.4 – CONFRONTING THE PROSECUTION'S CASE

The essence of the defense is confronting the prosecution's case. The lawyer should

develop a theme and theory of the case that directs the manner of conducting this confrontation. Whether it is refuting, discrediting, or diminishing the state's case, the theme and theory should determine the lawyer's course of trial.

Best Practices:

1. A lawyer should attempt to anticipate weaknesses in the prosecution's proof and consider researching and preparing corresponding motions for judgment of acquittal.

2. A lawyer should consider the advantages and disadvantages of entering into stipulations concerning the prosecution's case. Stipulations to the state's evidence should only be done in circumstances where there are clear benefits to the client.

3. In preparing for cross-examination, a lawyer should be familiar with the applicable law and procedures concerning cross-examination and impeachment of witnesses. A lawyer should be prepared to question witnesses regarding prior statements which they may have made or adopted, documents subject to disclosure, and to develop further material for impeachment beyond what was found during pre-trial investigation.

4. In preparing for cross-examination, a lawyer should:

    a. Consider the need to integrate cross-examination, the theory of the defense, and closing argument into questions for cross examination;
    b. Anticipate those witnesses the prosecutor might call in its case-in-chief or in rebuttal;
    c. Consider whether cross-examination of each individual witness is likely to generate helpful information;
    d. Consider an impeachment plan for any witnesses who may be impeachable including needed exhibits or transcripts;
    e. Be alert to inconsistencies in a witness' testimony;
    f. Be alert to possible variations in witness testimony;
    g. Review all prior statements of the witnesses and any prior relevant testimony of the prospective witnesses;
    h. If available, review investigation reports of interviews and other information developed about the witnesses;
    i. Review relevant statutes and police procedural manuals and regulations for possible use in cross-examining police witnesses;
    j. Be alert to issues relating to witness credibility, including bias and motive for testifying;

k. Be prepared with all necessary impeachment documents, including having properly certified and authenticated documents in accordance with evidentiary rules;
l. Be mindful of ways that certain topics could "open the door" to state's information that might otherwise be excluded;
m. Avoid asking questions that do not advance a defense theory, that allow the witness to provide unhelpful explanations, or questions that the attorney does not know the answer to.
n. Whenever possible, ask closed ended leading questions.

5. A lawyer should be aware of the applicable law concerning competency of witnesses and admission of expert testimony to raise appropriate objections.

6. Before beginning cross-examination, a lawyer should ascertain whether the prosecutor has provided copies of all prior statements of the witnesses as required by applicable law. If the lawyer does not receive prior statements of prosecution witnesses until they have completed direct examination, the lawyer should request, at a minimum, adequate time to review these documents before commencing cross-examination.

7. At the close of the prosecution's case, and out of the presence of the jury, a lawyer should move for a judgment of acquittal when appropriate on each count charged. The lawyer should request, when necessary, that the court immediately rule on the motion.

STANDARD 7.5 – PRESENTING THE DEFENSE CASE

A lawyer should be prepared to present evidence at trial where it will advance a defense theory of the case that best serves the interest of the client.

Best Practices:

1. A lawyer should develop, in consultation with the client and defense team, an overall defense strategy. In deciding on defense strategy, a lawyer should consider whether the client's interests are best served by not putting on a defense case and instead rely on the prosecution's failure to meet its constitutional burden of proving each element beyond a reasonable doubt.

2. A lawyer should discuss with the client all the considerations relevant to the client's decision whether or not to testify.

3. A lawyer should be aware of the elements of any affirmative defense and know whether the client bears a burden of persuasion or a burden of production.

4. In preparing for presentation of a defense case, a lawyer should:

    a. Develop a plan for direct examination of each potential defense witness and assure each witness's attendance by subpoena;
    b. Determine the implications that the order of witnesses may have on the defense case;
    c. Consider the possible use of character witnesses;
    d. Consider the need for expert witnesses; and
    e. Consider whether to present a defense based on mental disease, defect, diminished capacity, or partial responsibility and provide notice of intent to present such evidence. A lawyer must consult with the client about the implications of any defenses.

5. In developing and presenting the defense case, a lawyer should consider the implications it may have for a rebuttal by the prosecutor.

6. A lawyer should prepare all witnesses for direct and possible cross-examination. Where appropriate, a lawyer should also advise witnesses of suitable courtroom dress and demeanor.

7. A lawyer should conduct redirect examination as appropriate.

8. At the close of the defense case, the lawyer should renew the motion for judgment of acquittal on each charged count.

9. A lawyer should be prepared to object to an improper state's rebuttal case and offer surrebuttal witnesses if allowed.

STANDARD 7.6 – CLOSING ARGUMENT

A lawyer should be prepared to deliver a closing summation that presents the trier of fact with compelling reasons to render a verdict for the client.

Best Practices:

1. A lawyer should be familiar with the substantive limits on both prosecution and defense summation.

2. A lawyer should be familiar with local rules and the individual judge's practice concerning time limits and objections during closing argument as well as provisions for rebuttal argument by the prosecution.

3. A lawyer should prepare the outlines of the closing argument prior to the trial and refine the argument throughout trial by reviewing the proceedings to determine what aspects can be used in support of defense summation and, where appropriate, should consider:

    a. Highlighting weaknesses in the prosecution's case;
    b. Describing favorable inferences to be drawn from the evidence;
    c. What the possible effects of the defense arguments are on the prosecutor's rebuttal argument; and
    d. Incorporating into the argument:
        1) Helpful testimony from direct and cross-examinations;
        2) Verbatim instructions drawn from the jury charge; and
        3) Responses to anticipated prosecution arguments.

4. Whenever the prosecutor exceeds the scope of permissible argument, the lawyer should object, request a mistrial, or seek cautionary instructions unless tactical considerations suggest otherwise.

5. Whenever possible, a lawyer should moot all or part of closing argument prior to giving the closing in court.

STANDARD 7.7 – JURY INSTRUCTIONS

A lawyer should ensure that instructions to the jury correctly state the law and seek special instructions that provide support for the defense theory of the case.

Best Practices:

1. A lawyer should be familiar with the local rules and individual judges' practices concerning ruling on proposed instructions, charging the jury, use of standard charges and preserving objections to the instructions.

2. Where appropriate, a lawyer should submit modifications of the standard jury instructions in light of the particular circumstances of the case, including the desirability of seeking a verdict on a lesser included offense. When possible, a lawyer should provide case law in support of the proposed instructions.

3. A lawyer should object to and argue against improper instructions proposed by the court or prosecution.

4. If the court refuses to adopt instructions requested by the lawyer, or gives instructions over the lawyer's objection, the lawyer should take all steps necessary to preserve the record for appeal.

5. During delivery of the charge, the lawyer should be alert to any deviations from the judge's planned instructions, object to deviations unfavorable to the client and, if necessary, request additional or curative instructions, or move for a mistrial.

6. If the court proposes giving supplemental instructions to the jury, either upon request of the jurors or upon their failure to reach a verdict, a lawyer should request that the judge state the proposed charge to the lawyer before it is delivered to the jury and take all steps necessary to preserve a record of objection to improper instructions.

STANDARD 8.1 – OBLIGATIONS OF COUNSEL CONCERNING SENTENCING OR DISPOSITION

A lawyer must work with the client to develop a theory of sentencing or disposition and an individualized sentencing or disposition plan that is consistent with the client's desired outcome. The lawyer must present this plan in court and zealously advocate on behalf of the client for such an outcome.

Best Practices:

1. In every criminal case, a lawyer should:
    a. Be knowledgeable about the applicable law governing the length and conditions of any applicable sentence or disposition, the pertinent sentencing or dispositional procedures, and inform the client at the commencement of the case of the potential sentence(s) or disposition(s) for the alleged offenses(s);
    b. Be aware of the client's relevant history and circumstances, including prior military service, physical and mental health needs, immigration status, and

educational needs; and be sensitive to the client's sexual orientation or gender identity to the extent this history or circumstance impacts sentencing or the disposition plan;

c. Understand and advise the client concerning the availability of deferred sentences, conditional discharges, early termination of probation, informal dispositions, alternative dispositions including conditional postponement and diversion agreements (including servicemember status);
d. Understand and explain to the client the consequences and conditions that are likely to be imposed as probation requirements or requirements of other dispositions and the potential collateral consequences of any sentence or disposition in a case, including the effect of a conviction or adjudication on a sentence for any subsequent crime;
e. Be knowledgeable about treatment or other programs that could reduce the length of a client's time in custody;
f. Develop a plan in conjunction with the client, supported where appropriate by a written memorandum addressing pertinent legal and factual considerations, that seeks the least restrictive and burdensome sentence or disposition, which can be obtained based upon the facts and circumstances of the case and that is acceptable to the client;
g. Where appropriate, obtain assessments or evaluations that support the client's plan;
h. Investigate and prepare to present to a prosecutor, when engaged in plea negotiations or to the court at sentencing or disposition, available mitigating evidence and other favorable information that might benefit the client at sentencing or disposition;
i. Ensure that the court does not consider inaccurate information or immaterial information harmful to the client in determining the sentence or disposition to be imposed;
j. Be aware of and prepare to address, express or implicit bias that impacts sentencing or disposition; and
k. Review the accuracy of any temporary or final sentencing or disposition order or judgments of the court and move the court to correct any errors that disadvantage the client.

2. In understanding the sentence or disposition applicable to a client's case, a lawyer should:
    a. Be familiar with the law and any applicable administrative rules governing the length of sentence or disposition, including the Oregon Sentencing Guidelines as well as laws that establish specific sentences for certain offenses or for repeat

offenders;

b. Be knowledgeable about potential court-imposed financial obligations, including fines, fees and restitution, and, where appropriate, challenge the imposition of such obligations when not supported by the facts or law;
c. Be familiar with the operation of indeterminate dispositions and the law governing credit for pretrial detention, earned time credit, time limits on post-trial and post disposition juvenile detention and out-of-home placement, eligibility for correctional programs and furloughs, and eligibility for and length of post-prison supervision or parole from juvenile dispositions;
d. As warranted by the circumstances of a case, consult with experts concerning the collateral consequence of a conviction and sentence on a client's immigration status or other collateral consequences of concern to the client, e.g. civil disabilities, sex-offender registration, disqualification for types of employment, consequences for clients involved in the child welfare system, DNA and HIV testing, military opportunities, availability of public assistance, school loans and housing, and enhanced sentences for future convictions;
e. Be familiar with statutes and relevant cases from state and federal appellate courts governing legal issues pertinent to sentencing or disposition such as the circumstances in which consecutive or concurrent sentences may be imposed or when offenses should merge;
f. Establish whether the client's conduct occurred before any changes to sentencing or dispositional provisions that increase the penalty or punishment to determine whether application of those provisions is contrary to statute or *ex post facto* prohibitions;
g. In cases where prior convictions are alleged as the basis for the imposition of enhanced sentencing, determine whether the prior convictions qualify as predicate offenses or are otherwise subject to challenge as constitutionally or statutorily infirm;
h. Determine whether any mandatory sentence would violate the state constitutional requirement that the penalty be proportioned to the offense; and
i. Advance other available legal arguments that support the least restrictive and burdensome sentence.

3. In understanding the applicable sentencing and dispositional hearing procedures, a lawyer should:
    a. Determine the effect that plea negotiations may have on the sentencing discretion of the court;
    b. Determine whether factors that might serve to enhance a particular sentence must be pleaded in a charging instrument or proven to a jury beyond a

reasonable doubt;

c. Consult with the client concerning the strategic or tactical advantages of resolving factual sentencing matters before a jury, a judge, or by stipulation;
d. Understand the availability of other evidentiary hearings to challenge inaccurate or misleading information that might harm the client, to present evidence favorable to the client, and ascertain the applicable rules of evidence and burdens of proof at such a hearing;
e. Determine whether an official presentence report will be prepared for the court and, if so, take steps to ensure that mitigating evidence and other favorable information is included in the report, that inaccurate or misleading information harmful to the client is deleted from it. Determine whether the client should participate in an interview with the report writer, advise the client concerning the interview, and accompany the client during any such interview;
f. Determine whether the prosecution intends to submit a sentencing or dispositional memorandum, how to obtain such a document prior to sentencing or disposition and what steps should be followed to correct inaccurate or misleading statements of fact or law; and
g. Undertake other available avenues to present legal and factual information to a court or jury that might benefit the client and challenge information harmful to the client.

4. In advocating for the least restrictive or burdensome sentence or disposition for a client, a lawyer should:
    a. Inform the client of the applicable sentencing or dispositional requirements, options and alternatives, including liability for restitution and other court-ordered financial obligations and the methods of collection;
    b. Maintain regular contact with the client before the sentencing or dispositional hearing and keep the client informed of the steps being taken in preparation for sentencing or disposition, work with the client to develop a theory for the sentencing or disposition phase of the case;
    c. Obtain from the client and others information such as the client's background and personal history, prior criminal record, employment history and skills, current or prior military service, education and current school issues, medical history and condition, mental health issues and mental health treatment history, current and historical substance abuse history, and treatment, what, if any, relationship there is between the client's crime(s) and the client's medical, mental health or substance abuse issues, and the client's financial status, and sources through which the information can be corroborated;

d. Determine with the client whether to obtain a psychiatric, psychological, educational, neurological, or other evaluation for sentencing or dispositional purposes;
e. If the client is being evaluated or assessed, whether by the state or at the lawyer's request, provide the evaluator in advance with background information about the client and request that the evaluator address the client's emotional, educational and other needs as well as alternative dispositions that will best meet those needs and society's needs for protection;
f. Prepare the client for any evaluations or interviews conducted for sentencing or disposition purposes;
g. Be familiar with and, where appropriate, challenge the validity and reliability of any risk assessment tools;
h. Investigate any disputed information related to sentencing or disposition, including restitution claims;
i. Inform the client of the client's right to address the court at sentencing or disposition and, if the client chooses to do so, prepare the client to personally address the court, including advice of the possible consequences that admission of guilt may have on an appeal, retrial, or trial on other matters;
j. Ensure the client has adequate time prior to sentencing to examine any presentence or dispositional report, or other documents and evidence that will be submitted to the court at sentencing or disposition;
k. Prepare a written sentencing memorandum where appropriate to address factual or legal issues concerning the sentence;
l. Be prepared to present documents, affidavits, letters, and other information, including witnesses, that support a sentence or disposition favorable to the client;
m. Challenge any conditions of probation or post-prison supervision that are not reasonably related to the crime of conviction, the protection of the public, or the reformation of the client;
n. When the court has the authority to do so, request specific orders or recommendations from the court concerning the place of confinement, parole eligibility, mental health or other treatment services, and permission for the client to surrender directly to the place of confinement;
o. Be familiar with the obligations of the court and district attorney regarding statutory or constitutional victims' rights and, where appropriate, ensure that the record reflects compliance with those obligations;
p. Take any other steps that are necessary to advocate fully for the sentence or disposition requested by the client and to protect the interests of the client; and
q. Advise the client about the obligations and duration of sentence or disposition conditions imposed by the court, and the consequence of failure to comply with

orders of the court.

STANDARD 9.1 – CONSEQUENCES OF PLEA ON APPEAL

In addition to direct and collateral consequences, a lawyer should be familiar with, and advise the client of, the consequences of a plea of guilty or a plea of no contest on the client's ability to successfully challenge the conviction, sentence, or disposition in an appellate proceeding.

STANDARD 9.2 – PRESERVATION OF ISSUES FOR APPELLATE REVIEW

A lawyer should be familiar with the requirements for preserving issues for appellate review. A lawyer should discuss the various forms of appellate review with the client and apprise the client of which issues have been preserved for review.

Best Practices:

1. A lawyer should know the requirements for preserving issues for review on direct appeal and in federal habeas corpus proceedings.

2. A lawyer should review with the client those issues that have been preserved for appellate review and the prospects for a successful appeal.

STANDARD 9.3 – UNDERTAKING AN APPEAL

A lawyer must be knowledgeable about the various types of appeals and their application to the client's case and should impart that information to the client. A lawyer should inquire whether a client wishes to pursue an appeal. When requested by the client, a lawyer should ensure that a notice of appeal is filed and that the client receives information about obtaining appellate counsel.

Best Practices:

1. Throughout the trial proceedings, but especially upon conviction, adjudication, sentencing and disposition, a lawyer should discuss with the client the various forms of appellate review and how they might benefit the client.

2. If the client chooses to pursue an appeal, a lawyer should take appropriate steps to preserve the client's rights, including requesting a re-hearing, filing notice of appeal, or

referring the case to an appellate attorney or OPDC to have the notice of appeal filed.

3. When the client pursues an appeal, a lawyer should cooperate in providing information to the appellate lawyer concerning the proceedings in the trial court. A trial lawyer must provide the appellate lawyer with all records from the trial case, the court's final judgment and any other relevant or requested information.

4. If a lawyer is representing a client who is financially eligible for appointed counsel, the lawyer shall determine whether the client wishes to pursue an appeal and, if so, transmit to the Oregon Public Defense Commission the information necessary to perfect an appeal, pursuant to ORS 137.020(6).

5. If the client decides to appeal, a lawyer should inform the client of the possibility of obtaining a stay pending appeal and file a motion in the trial court if the client wishes to pursue a stay.

STANDARD 9.4 – POST SENTENCING AND DISPOSITION PROCEDURES

A lawyer should be familiar with procedures that are available to the client after disposition. A lawyer should explain those procedures to the client, discern the client's interests and choices and be prepared to zealously advocate for the client.

Best Practices:

1. Upon entry of judgment, a lawyer should immediately review any judgment or final order to assure that it accurately reflects terms of sentencing or other disposition favorable to the client that were agreed upon in resolution of the case or pronounced by the court and through inadvertence or error not correctly included in a judgment or final order. Lawyers should seek modification or amendment of any judgment or final order which contains errors disadvantageous to the client;

2. The lawyer must be knowledgeable concerning the application and procedural requirements of a motion for new trial or motion to correct the judgment and must file those motions when requested by the client and allowed by law;

3. Lawyers must be knowledgeable about and litigate issues of restitution arising from the case until a judgment on restitution is entered by the court and should appeal judgments of restitution when applicable according to Standard 9.3;

4. Lawyers should seek court orders or other remedies on behalf of a client if a term of sentencing or other disposition favorable to the client is not followed or implemented by a probation department, Department of Corrections, the Department of Human Services, the Oregon Youth Authority, or other entity having authority over the client in connection with the subject of the representation. Lawyers who are unable to seek such court orders should cooperate with OPDC in order to preserve the client's rights and find suitable counsel for such litigation;

5. Lawyers should be knowledgeable about the ability of clients to reduce the severity of certain felony crimes to misdemeanors and, when merited and requested by a former client, should file and litigate motions for such treatment;

6. To the extent possible a lawyer should cooperate with any appellate or post-conviction counsel to the extent that cooperation benefits the client.

7. Lawyers should, upon request, provide copies of the entire file to the client, appellate, or post-conviction relief counsel.

Oregon Public Defense Commission

Financial & Case Management System Update

August 20, 2025

Kenneth Sanchagrin, Interim Executive Director
kenneth.sanchagrin@opdc.state.or.us

David Martin, CIO, FCMS

Oregon Public Defense Commission

FCMS August 2025

Agenda

CONTRACT AWARD STATUS

SCHEDULE

ACCOMPLISHMENTS

UPCOMING MILESTONES

BUDGET

FCMS August 2025

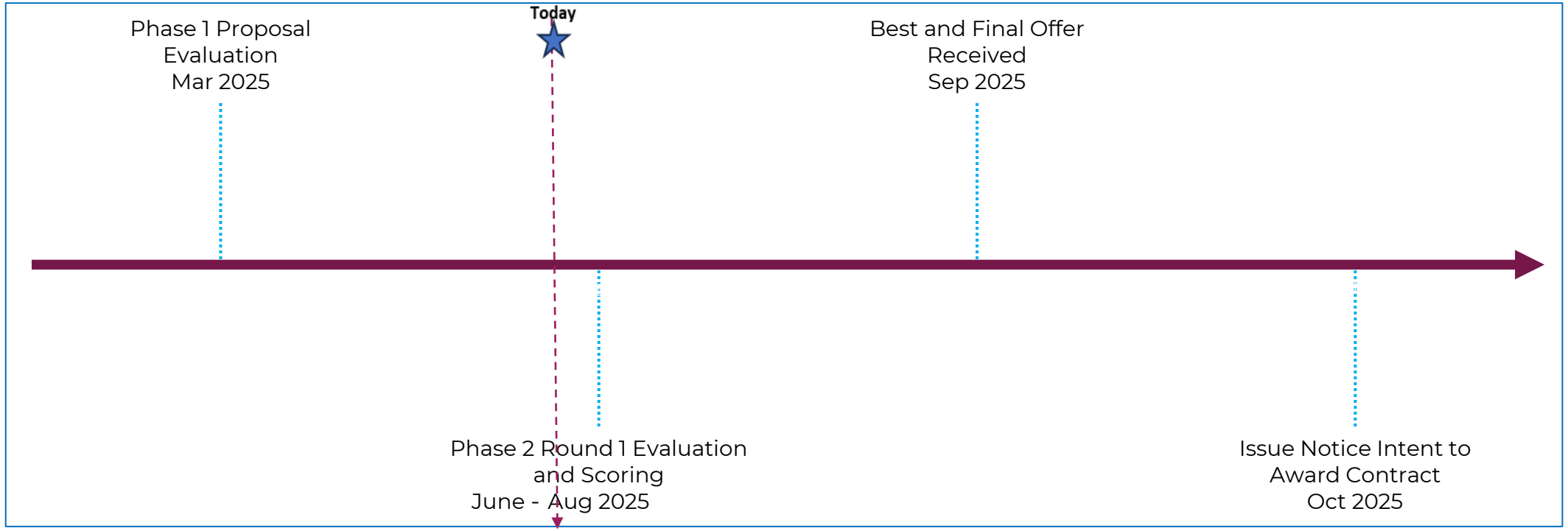
Implementation Planning Phase Approval & Procurement Status

RFP / Procurement: Proposers demonstrated their financial and case management systems and gave presentations at our Salem headquarters July 21-24. During the month of August, the evaluation committee will analyze each system's strengths and weaknesses, complete their evaluations, and rank the proposals. The committee will then brief project leadership on the results, provide options, and make recommendations for next steps.

Implementation Planning: Implementation planning work has progressed towards 70% completion. The FCMS Project Team is currently focused on technical process mappings, use case development, and data migration planning. In parallel refinement of the budget, scope and schedule are ongoing.

FCMS August 2025

Procurement Schedule



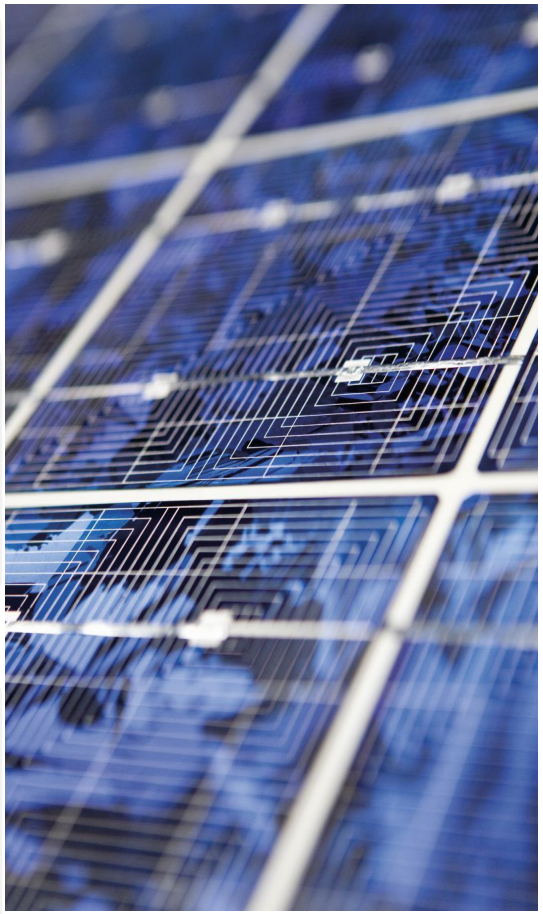
Evaluation Committee begins evaluation of Ph 2 Rd 1 written proposals mid-June; reviews Proposer Project Team proposal presentations / technical solution demonstrations July 21 - 24; completes proposal strength and weakness analyses and evaluation and ranking of proposals first week of August; presents results, options, and recommendations to FCMS Leadership for decision as to Phase 3 (award vs request best and final offers); potential to receive and evaluate best and final offers in August – September.

Accomplishments

Trial Division and Appellate Division process flow diagramming is complete. Timekeeping process documentation is complete.

Refreshing the second batch of documents for Implementation Planning concluded in July.

OPDC hosted Proposer project team presentations / technical solution demonstration July 21st – July 24th.



FCMS August 2025

Upcoming Milestones

Trial Division Section 1 and Section 2 Use Cases work continues alongside IT Administrative processes and Juvenile processes.

Implementation Planning refresh work shifts focus to: Scope, Schedule, Budget, Project Management Plan and technical documents.

The Evaluation Committee completes Phase 2, Round 1 written proposal and Proposer Presentation/ Solution Demonstration evaluations, as well as strengths/weaknesses analyses in early August 2025, and presents results, options, and recommendations to FCMS Leadership. FCMS Leadership makes a decision as to Phase 3 actions.

FCMS August 2025

Budget

Bond funding for $16.5 million in SB 5505 & HB 5006 passed both chambers for approval and received signature by Gov. Kotek.

Bond funding for $16.5 million in SB 5505 & HB 5006 will move forward for allocation in the FCMS project.