

## Members:

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



**Oregon  
Public  
Defense  
Commission**

## Nonvoting Members:

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

## Executive Director:

Jessica Kampfe

### **Oregon Public Defense Commission**

*Meeting will occur in-person with a virtual option via Zoom.\**

*Friday, December 6, 2024*

*9:00 AM – approx. 1:00 PM PST*

*The Benson Hotel Crystal Ballroom:  
309 SW Broadway, Portland OR 97205*

#### **Administrative Announcement**

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

## AGENDA

Approx. Time	Item	Lead(s)
9:00-9:05	Welcome	Chair Nash
9:05-9:30	Public Comment	
9:30-9:40	<b>Update:</b> <a href="#">Unrepresented Persons in Oregon Courts</a>	Jessica Kampfe Harry Noone
9:40-9:50	<b>Update:</b> Budget	Ralph Amador
9:50-10:00	<b>Action Item:</b> <a href="#">Conditional Extension of THIP</a>	Jessica Kampfe
10:00-10:10	<b>Action Item:</b> Policy Updates 1. <a href="#">Preauthorized Expense</a> 2. <a href="#">Schedule of Guideline Amounts</a> 3. <a href="#">Routine Expenses</a>	Amy Schabert Kim Freeman
10:10-10:30	<b>Potential Action Item:</b> <a href="#">OPDC Strategic Plan</a>	Jessie Lenhardt – Moss Adams
10:30-10:45	<b>Briefing:</b> Executive Branch and Workforce Transition	Jessica Kampfe

10:45-10:50	<b>Discussion:</b> Bylaw Amendments	Vice Chair Mandiberg
10:50-11:00	<b>****Break****</b>	
11:00-11:20	<b>Briefing:</b> <a href="#">Operations</a>	Emese Perfecto
11:20-11:30	<b>Briefing:</b> <a href="#">Oregon Administrative Rules</a>	Jennifer Bell Kim Freeman
11:30-11:40	<b>Briefing:</b> <a href="#">Public Service Loan Forgiveness</a>	Kim Freeman Heather Kessinger
11:40-11:50	<b>Briefing:</b> <a href="#">Survey Results from April 2024 Retention Incentive Funds</a>	Kim Freeman
11:50-12:00	<b>Update:</b> <a href="#">FCMS</a>	Mary Knoblock
12:00-12:10	<b>Update:</b> Director's Update	Jessica Kampfe
12:10-12:25	<b>Briefing:</b> Local Court Spotlight: Douglas County	Presiding Judge Kathleen Johnson
1:00 (Approximately)	<b>***Adjourn***</b>	

*\*To join the Zoom meeting, click this link <https://zoom.us/j/92777275055>. 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](mailto:info@opdc.state.or.us). Please make requests as far in advance as possible, and at least 48 hours in advance of the meeting, to allow us to best meet your needs. Listed times are an estimate, and the Chair may take agenda items out of order and/or adjust times for agenda items as needed.*

*\*\*The commission welcomes public comment. There is a limited amount of time to provide public comment during the meeting, with each commentator allowed up to three minutes of time. However, the time limit per person for public comment may be limited by the chair if time constraints require.*

*If you are interested in providing virtual public comment to the OPDC, please submit your request no later than 5:00 PM PT December 4, 2024 using our [online form](#). Please include your full name, organization/entity name, email, and phone number with your request, and indicate if you plan to give your comments virtually or in-person. If you choose to provide your comments virtually, you will be provided a meeting link to join the meeting as a panelist for the public comment portion of the meeting.*

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

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

*Next meeting: **January 15, 2025, 9am – 1pm via Zoom.***

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



# Oregon Judicial Department

## Unrepresented Crisis – November 2024 Update: Part 2 (statewide data)

---

This November 2024 Update: Part 2 (statewide data) supplements the November 2024 Update provided to the OPDC on November 6, 2024, for the November OPDC meeting. OPDC meeting deadlines precluded OJD from providing this statewide data at that time, but the data is now available and provided in this supplemental report.

Beginning with the December 2024 Update, OJD will publish these monthly reports on a regular schedule for all recipients, including the OPDC, and will continue to provide OPDC with local data separately to support court presentations to the Commission.

### Key Insights

---

#### [Unrepresented Trends](#)

The total number of **unrepresented individuals and unrepresented cases continues to increase, reaching a new high on November 1, 2024**, with 3,832 unrepresented individuals and 4,244 unrepresented cases. ([Figure 1 and Figure 2](#)). Daily updates are available from the [Unrepresented Dashboard](#) on the OJD website.

More cases exited the unrepresented list in October 2024 than were added, and the number of cases exiting the list has also increased since August ([Figure 3](#)). However, the number of cases added to the unrepresented list has been increasing since September.

#### [Appearances Before Dismissal](#)

Unrepresented persons appear in court an average of five times before counsel is appointed and an average of three times before their case is dismissed ([Figure 5](#)).

#### [Unrepresented – Out-of-Custody](#)

The average number of days a case is on the unrepresented list before an attorney is assigned has increased from 93 days in September 2024 to 103 days in November 2024 ([Figure 6](#)). There are 56 pending cases that have been unrepresented list for more than one year and two have been on the list for more than two years.

#### [Criminal Case Filings](#)

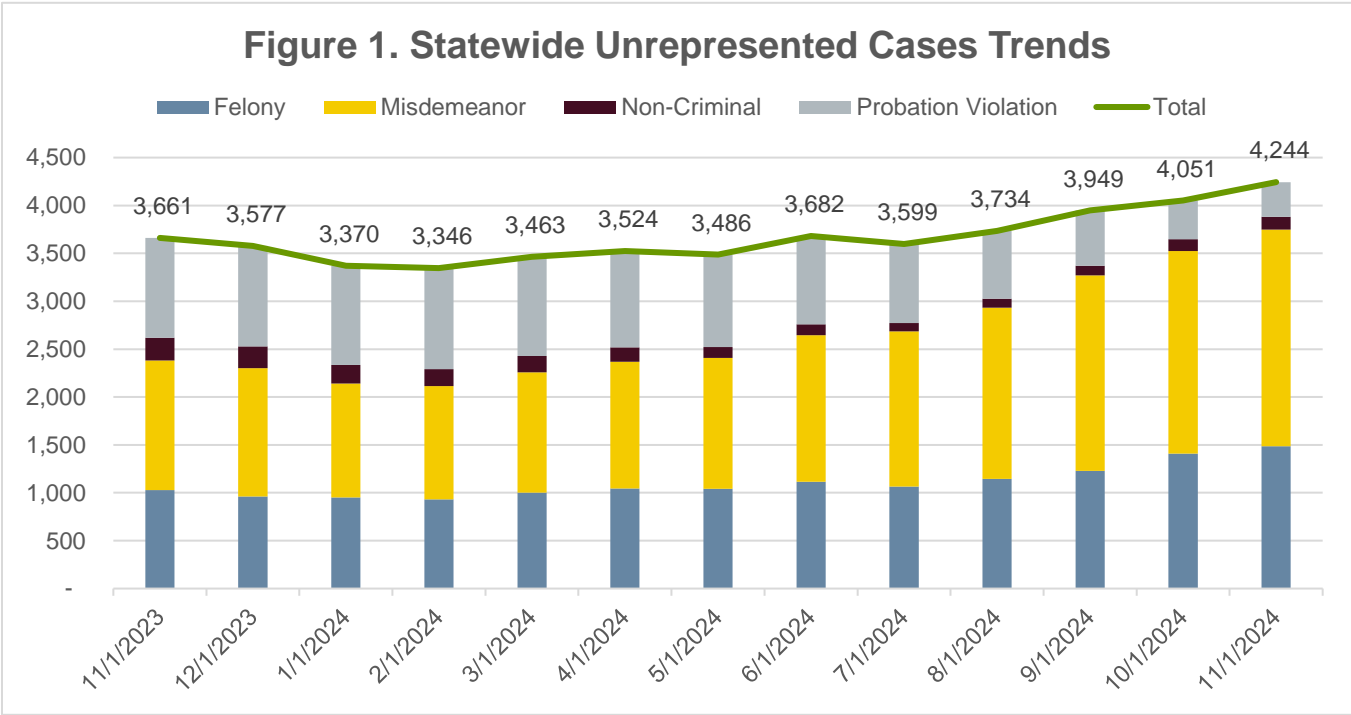
The number of criminal cases filed each month has increased over the past twelve months ([Figure 7](#)).

#### [Unrepresented by County](#)

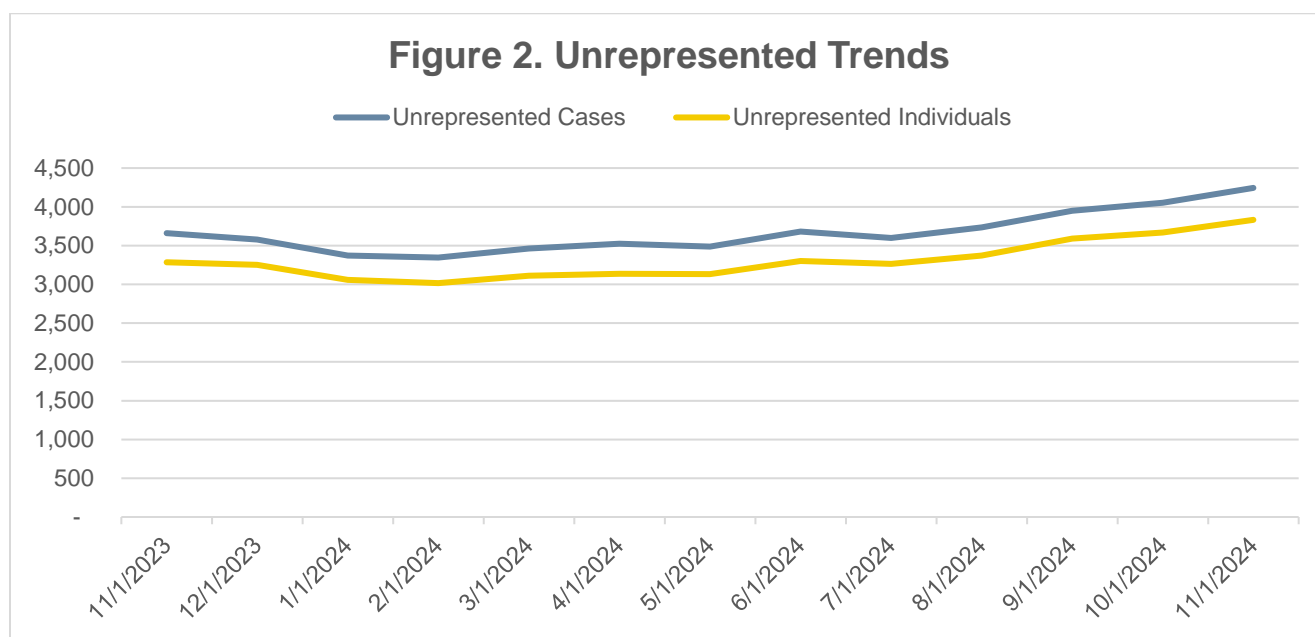
Multnomah County has surpassed Jackson County and now has the most unrepresented individuals in the state at 890 individuals. ([Figure 8](#)).

# Unrepresented Trends

**Figure 1** shows the number of unrepresented cases by case type. The number of unrepresented cases continues to increase, reaching a new record high on November 1, 2024 of 4,244 cases. The number of felony, misdemeanor, and non-criminal unrepresented cases has increased, while number of unrepresented probation violations has decreased. Non-criminal cases include juvenile dependency and delinquency, post-conviction/habeas, and civil commitment cases. **Figure 2** shows the number of unrepresented cases and unrepresented individuals. While there are 4,244 unrepresented cases, there are 3,832 unrepresented individuals. Some unrepresented individuals have more than one unrepresented case.

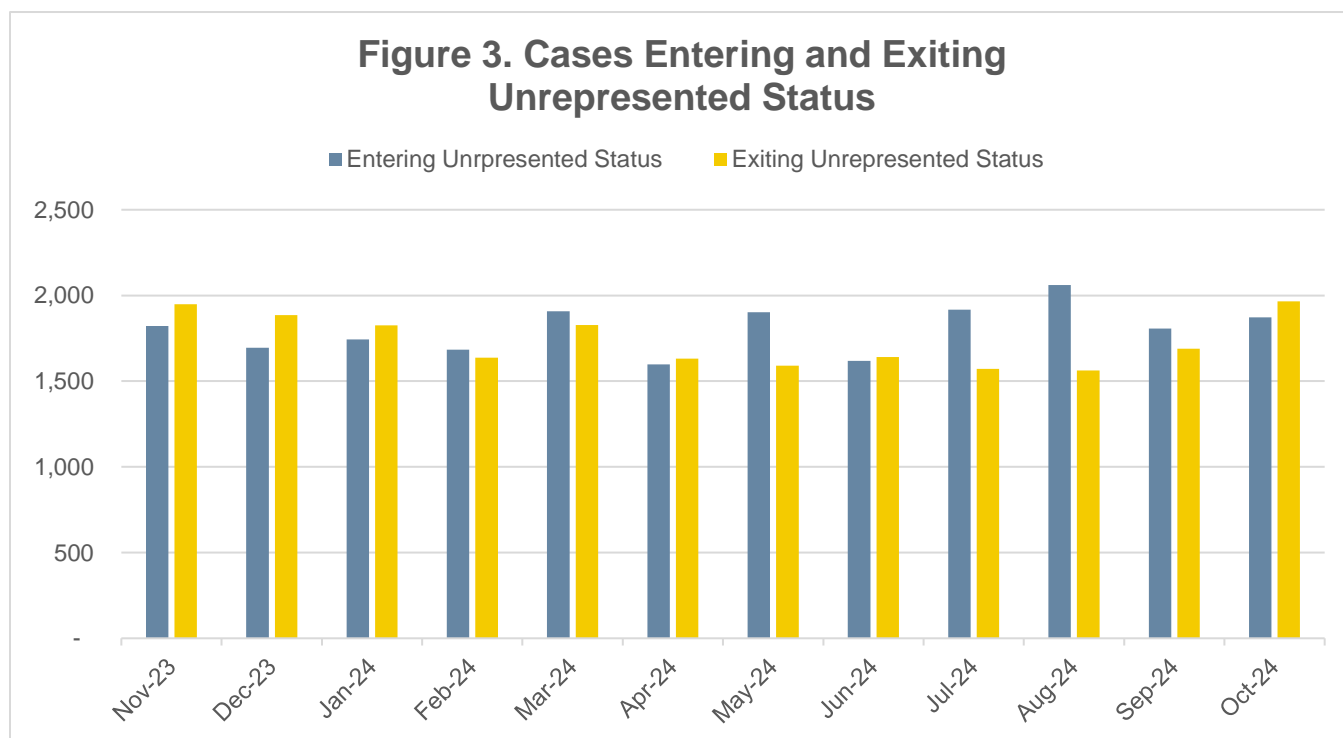


Source: OJD Odyssey Data (eCourt).



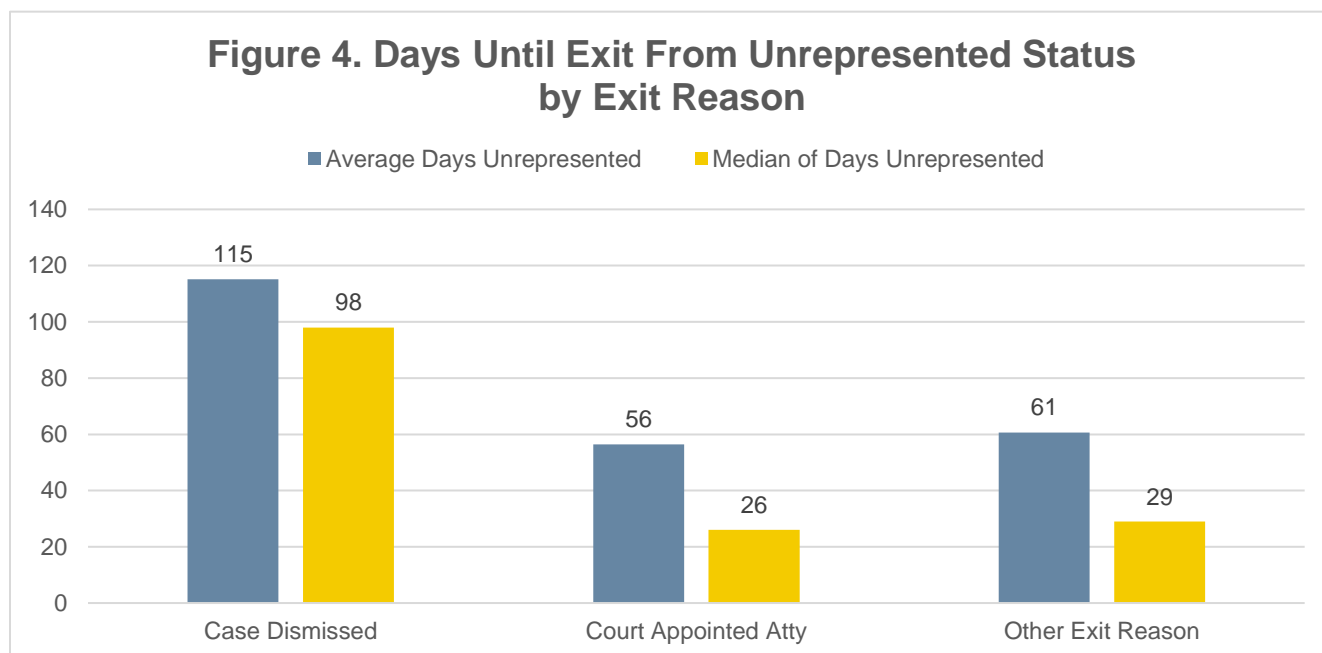
Source: OJD Odyssey Data (eCourt).

**Figure 3** shows the number of unrepresented cases entering and exiting unrepresented status by month and year. In October 2024, slightly more cases exited the unrepresented list than entered; however more cases entered the unrepresented list than the prior month. Oregon still saw an increase in the total number of unrepresented cases, which is likely due to an increase in criminal filings as seen below in [Figure 7](#).



Source: OJD Odyssey Data (eCourt).

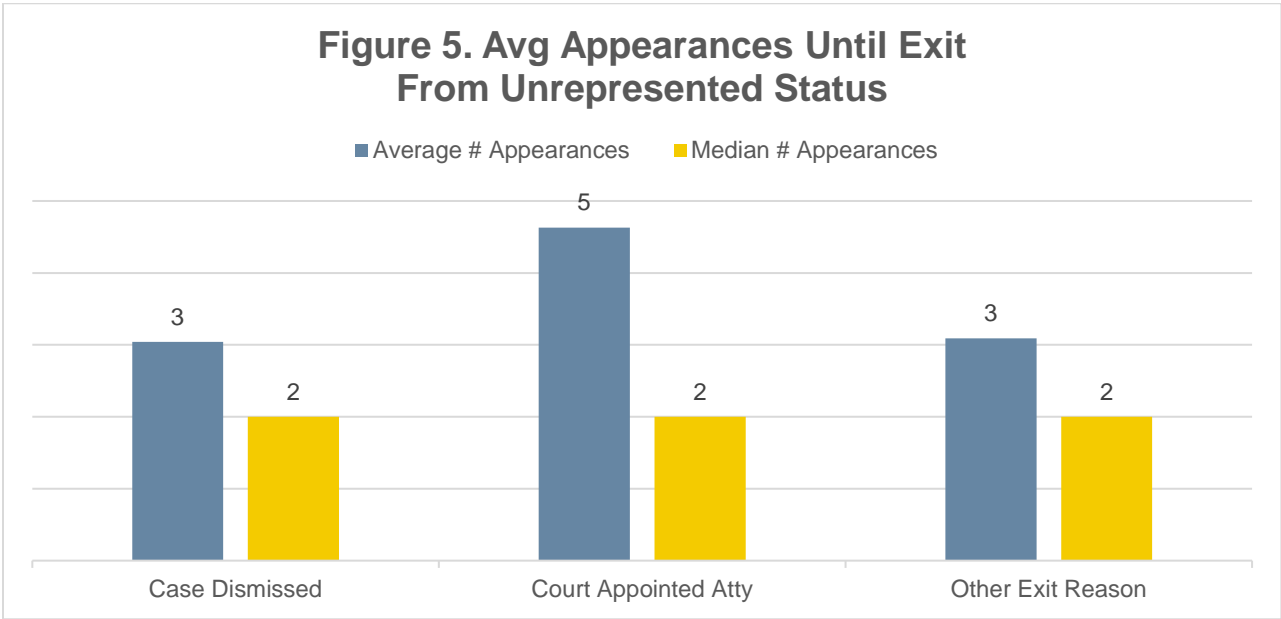
**Figure 4** shows the days until exit from the unrepresented list based on exit reason. The most common reason for exit is the case was dismissed. On average, unrepresented cases are appointed counsel faster than unrepresented cases are dismissed. Cases may be dismissed for reasons unrelated to the person's unrepresented status. For instance, an unrepresented case could also be dismissed as part of a negotiated plea deal where a person pleads guilty to a charge in a represented case, or the prosecutor may move to dismiss an unrepresented case because they are unable to proceed to grand jury within the time required by statute or a witness has become unavailable.



Source: OJD Odyssey Data (eCourt).

## Appearances Before Dismissal

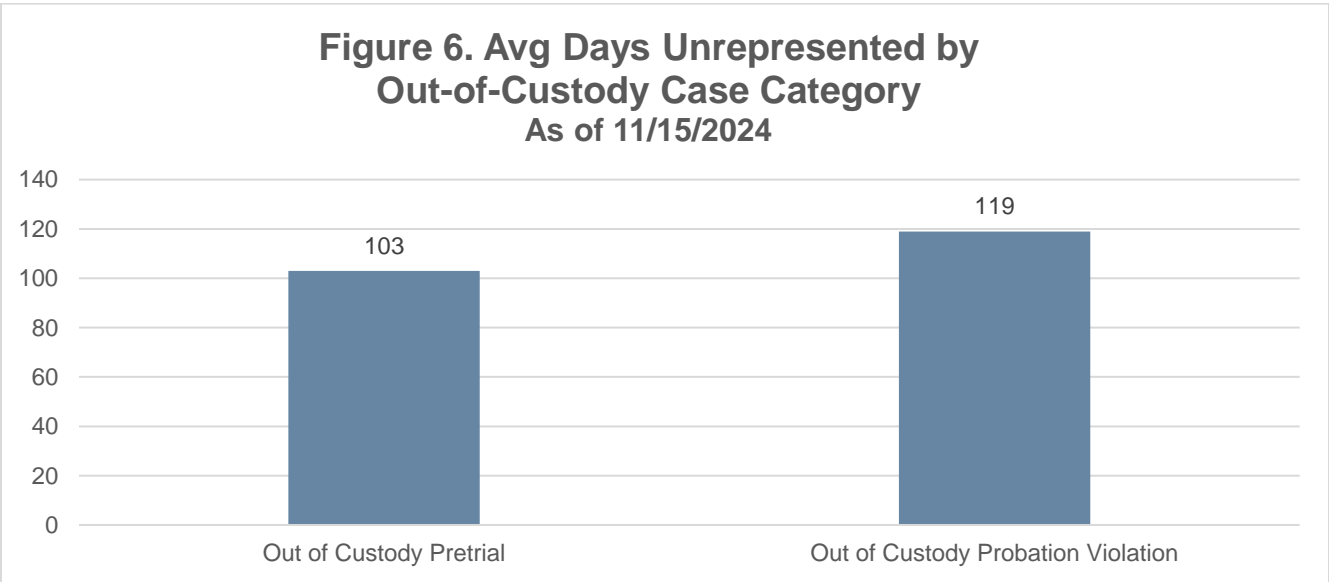
**Figure 5** shows the average number of court appearances until a person exists the unrepresented list. On average, individuals appear in court five times before counsel is appointed and an average of three times before a dismissal.



Source: OJD Odyssey Data (eCourt).

## Unrepresented – Out-of-Custody

**Figure 6** shows the average number of days a case is unrepresented by out-of-custody case category. The average number of days an out-of-custody pretrial case is on the unrepresented list has increased from 96 days to 103 days since September 2024. As of November 19, 2024, there are 56 out of custody unrepresented cases (not currently in active warrant status) that have been on the unrepresented list for more than one year. One case has been unrepresented for 807 days.

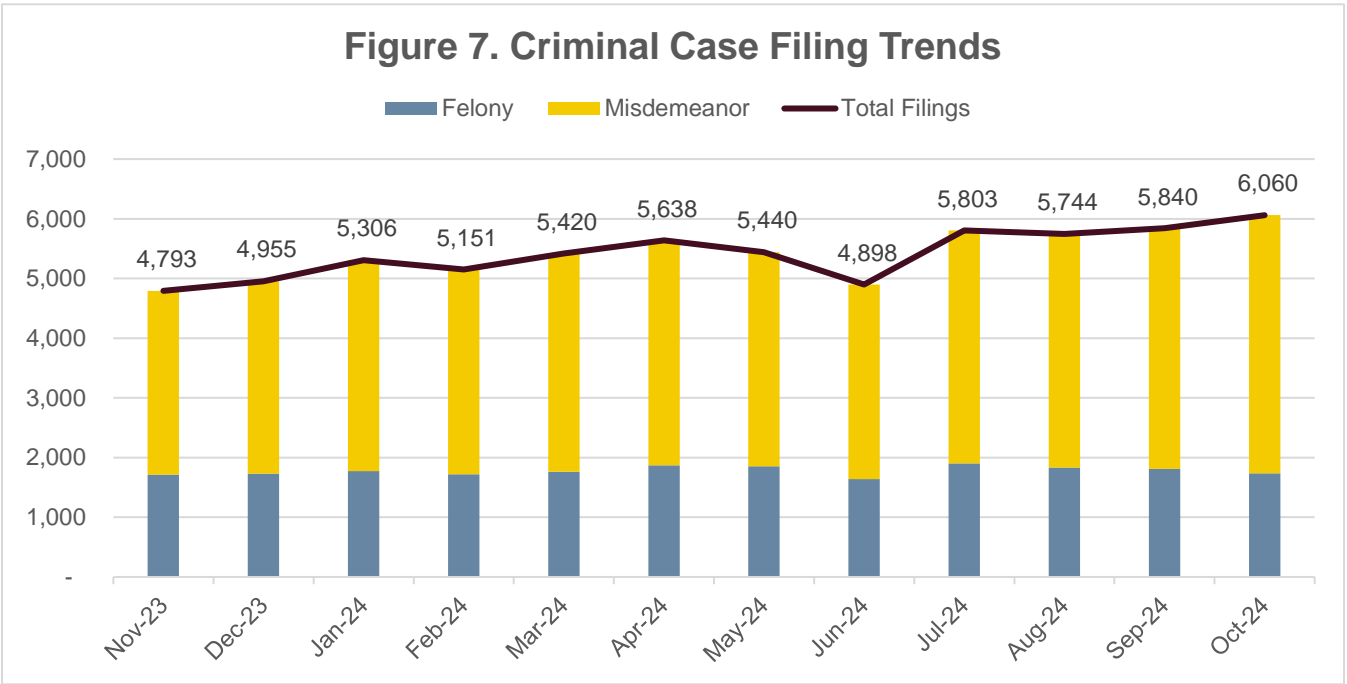


Source: OJD Odyssey Data (eCourt).



## Criminal Case Filings

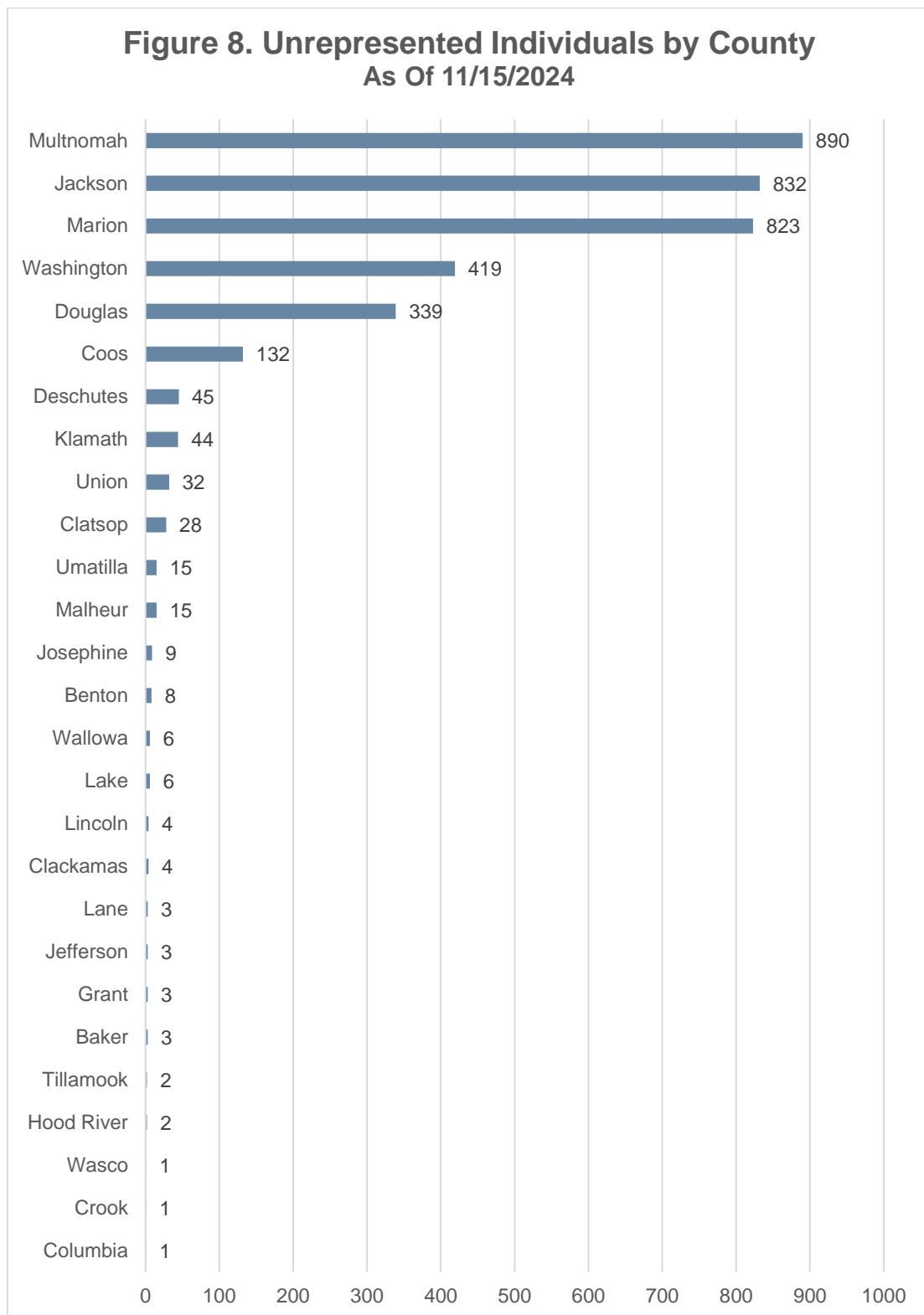
**Figure 7** shows the number of criminal case filings by case type. Criminal case filings generally have increased throughout the past year.



Source: OJD Odyssey Data (eCourt).

## Unrepresented by County

**Figure 8** shows the number of unrepresented individuals by county. Out of ten counties with the highest number of unrepresented individuals, Multnomah, Jackson, Washington, Klamath, and Union all saw an increase in the number of unrepresented individuals from the previous month. Multnomah now has the most unrepresented persons in state. On October 2, 2024, Multnomah had 653 unrepresented individuals and on November 15, 2024, the county had 890 unrepresented individuals.



Source: OJD Odyssey Data (eCourt).



**Date:** December 6, 2024

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

**Cc:** Jessica Kampfe, Agency Director

**From:** Kim Freeman, CAP Manager

**Re:** Temporary Hourly Increase Policy (THIP)

**Nature of Presentation:**

Action Item

**Background:**

The Temporary Hourly Increase Policy has been in existence since August 2022 to pay a higher hourly rate to address the need for persons that are in custody and on the OJD Unrepresented list. THIP was established to be a temporary emergency program but was extended as a bridge until state employees started taking cases. THIP has brought in attorneys who would not otherwise serve some of the most vulnerable population. It has been an essential part of the response to the unrepresented persons crisis.

**Agency Recommendation:**

The recommendation to extend THIP from January 1, 2025– June 30, 2025 is contingent on the E-Board approval of the agencies ask to extend the program. The E- Board is scheduled to meet December 10-12, 2024 which after the December meeting and the Commission will meet again on January 15<sup>th</sup>, this will allow the program to continue without interruption.

**Fiscal Impact:**

Extending the program will result in an incremental cost of \$2.5 million. The agency

has requested \$1,020,768 in special purpose appropriation for public defense; however, it also needs to request \$1,429,976 of general-purpose allocation from the Emergency Board.

\*\*E-Board request attached for additional information.

**Agency Proposed Motion:**

Agency recommends the extension of the THIP policy from January 1, 2025 – June 30, 2025 contingent upon the E-Board request for approval. This new policy will supersede any previous memo or policy.



# Oregon

---

**Oregon Public Defense Commission**

198 Commercial St. SE, Suite 205

Salem, Oregon 97301-3489

Telephone: (503) 378-2478

Fax: (503) 378-4463

[www.oregon.gov/opdc](http://www.oregon.gov/opdc)

**Nov. 8, 2024**

The Honorable Rob Wagner, Co-Chair  
The Honorable Julie Fahey, Co-Chair  
State Emergency Board  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301

Dear Co-Chairs:

## **Nature of the Request**

The Oregon Public Defense Commission (OPDC) requests that the Emergency Board approve an extension of the Temporary Hourly Increase Program (THIP) from Jan. 1, 2025, to June 30, 2025. Based on projections, OPDC requests access to the special purpose appropriation for public defense to defray the incremental cost of extending the program. The agency also requests a general-purpose allocation from the Emergency Board to completely fund the request.

In May, the Emergency Board agreed to extend THIP from July 2023 to December 2024; funding was deferred until a future Emergency Board meeting. In September, OPDC submitted a report on that extension with a request to extend THIP through June 2025. The report was accepted, and the request for extension was deferred until December 2024.

On May 23, 2024, Gov. Tina Kotek requested that the commission submit a plan by Aug. 1, 2024, to “eliminate Oregon’s unrepresented client crisis in both the near and long term, and that plan should be based in the realities of the current fiscal and legislative environment.” The commission submitted that plan to the governor. The plan included interventions that OPDC was taking, or planned to, take within existing resources. It also included interventions that would require legislative approval, funding through the Emergency Board, or both. This request is in line with that crisis plan.

## **Agency Action**

### Temporary Hourly Increase Program and Other Programs

When it comes to assigning counsel to a person eligible for public defense, OPDC contractors are first in line. Under normal circumstances, the court assigns an available attorney upon arraignment. However, when no attorney is available due to lack of capacity or conflicts of

interest, the court will assign OPDC as a placeholder. This puts the defendant on the unrepresented list and notifies the commission of the need to find counsel. The commission's most effective tool for locating counsel is the Temporary Hourly Increase Program (THIP). Beginning in August 2022, THIP began paying attorneys a higher hourly rate for taking unrepresented cases. THIP has brought in attorneys who would not otherwise serve some of the most vulnerable population. It has been an essential part of the response to the unrepresented persons crisis.

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

The program has also brought new lawyers into the system. Before 2022, when the rates were \$75 and \$105 an hour, about 1% of OPDC-assigned cases were taken hourly. Of the 252 currently active attorneys handling THIP cases, 166 are not contracted providers with OPDC. Attorneys under contract must reach their monthly maximum attorney caseload (MAC) before they are able to take on a THIP case, ensuring that OPDC is using contracted capacity before paying hourly providers.

The goal of this request is to continue THIP, which sunsets on Dec. 31, 2024, through the end of the biennium. As the program has changed and commission-driven policy changes have matured, our budget and data teams have been able to more accurately forecast the remainder of the biennium. These new projections have produced expected overages in the CME and PAE program areas due to THIP and the unrepresented persons crisis. As a result, the agency must rebalance all its resources to remain within its budgeted authority. To do so, we will need to tap into a special purpose appropriation.

The table on the next page shows the budget, expenditures, and projections for THIP if the program were extended to the end of the biennium. The program has a legislatively approved budget of \$13,213,374. From July 1, 2023, to Sept. 30, 2024, the program's expenditures were \$26,907,983. This means THIP is \$13,694,609 over budget. Notwithstanding the current deficit, we project the program's expenditures through the end of the biennium to be \$47,063,891. This would result in a deficit of \$33,850,517 between the program's budget and expenditures.

	<b>Court Mandated Expenses</b>	<b>Preauthorized Expenses</b>	<b>Total</b>
<b>2023 - 25 Legislatively Approved Budget</b>			
Non-THIP	65,897,147	55,340,161	121,237,308
THIP	9,935,850	3,277,524	13,213,374
<b>Total 2023 - 25 LAB</b>	<b>75,832,997</b>	<b>58,617,685</b>	<b>134,450,682</b>
<b>Forecast from July 1, 2023, to June 30, 2025</b>			
Non-THIP	25,026,368	83,933,601	108,959,969
THIP	38,635,815	8,428,076	47,063,891
<b>Total forecast</b>	<b>63,662,183</b>	<b>92,361,677</b>	<b>156,023,860</b>

#### Temporary Hourly Increase Program Extension

Extending the program would result in an incremental cost of \$2.5 million. The most significant cost is attorney fees followed by investigator fees. The table below forecasts the expected incremental costs if an extension were approved. In September, the Emergency Board established additional position authority to serve the program and to dispose pending applications for enhanced rates. The commission is in the preliminary stages of providing requisition notices on the state's human resources information system, and the position authority expires at the end of the biennium. While the effect of additional resources in this program is unknown, staff believe those resources may cause a perceptible increase in the incremental costs.

<b>Service</b>	<b>Status quo</b>	<b>Extended</b>	<b>Difference</b>
Attorney fees	53,351,857	55,162,893	1,811,036
Investigator fees	29,890,558	30,521,266	630,708
Psychiatric fees	33,885,262	33,885,262	0
All other services	36,454,439	36,463,439	9,000
<b>Grand total</b>	<b>153,582,116</b>	<b>156,032,860</b>	<b>2,450,744</b>

#### 2025-2027 Biennium

As the Legislative Fiscal Office acknowledged in its recommendation in May, THIP represents a continuing financial obligation to the state until a case assigned under the program is resolved. As such, expenditures are expected to continue to mount in the second year of the biennium and into the next biennium for unadjudicated cases. In addition, the program's costs include payment

not just for hourly attorneys but also for expenses related to expert witnesses and investigations, which can be significant. Hourly attorneys and investigators representing THIP cases may also be reimbursed for travel and other allowable expenses. Those cases also come with roll-up costs into future biennia. The commission calculated those costs to provide full transparency to this body. Those roll-up costs will be included in the commission's policy option package 107, Temporary Hourly Increase Program Carryover, offered as part of the agency's requested budget. That policy option package is not a request to continue the program but to fund bills that will come in from cases previously assigned by the program.

### **Action Requested**

The Oregon Public Defense Commission (OPDC) requests that the Emergency Board approve a request to extend the Temporary Hourly Increase Program from Jan. 1, 2025, to June 30, 2025. The commission can defray the incremental cost of extending the program using the remaining \$1,020,768 in the special purpose appropriation for public defense; however, it also needs to request \$1,429,976 of general-purpose allocation from the Emergency Board.

### **Legislation Affected**

Oregon Laws 2023, chapter 605, section 1.	(\$1,429,976)
Oregon Laws 2023, chapter 605, section 9.	(\$1,020,768)
Oregon Laws 2023, chapter 481, section 1(7).	\$1,811,036
Oregon Laws 2023, chapter 481, section 1(6).	\$639,708

Sincerely,



Jessica Kampfe  
Executive Director

cc:

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





<u>POLICY NAME:</u>	Temporary Hourly Increase Policy	<b>Number:</b>	<b>404-070-004</b>
<u>DIVISION:</u>	Trial Division		
<u>RESPONSIBLE SECTION:</u>	Criminal and Juvenile	<b>Revised:</b>	<b>December 6, 2024</b> [June 13, 2024]
		<b>Expires:</b>	<b>June 30, 2025</b> [December 31, 2024]
	<b>*Effective 7/1/2024 – 06/30/2025 [12/31/2024] this policy only applies to in-custody clients on the OJD Unrepresented list</b>		

**PURPOSE:** Establishes criteria to increase the hourly rate for appointed counsel and investigators for persons that **are in-custody** and on the OJD Unrepresented list.

**AUTHORITY:** ORS 151.216(f)(B) and (C), 151.219

**APPLICABILITY:** This policy applies to Counsel and Investigators who agree to accept case(s) for clients who are **in custody**, financially qualified and entitled to representation by appointed Counsel at state expense and for whom the court has been unable to locate counsel.

**DEFINITIONS FOR PURPOSES OF THIS POLICY:**

**Appointed Counsel:** An attorney who is identified by OPDC, who is appointed by a court to represent a client at state expense and who may be contract or private bar counsel.

**Case Support Services (CSS):** Case related fees and expenses for preparation and presentation of the case for trial, negotiation, and sentencing that require preauthorization per ORS 135.055.

**Co-Counsel:** An attorney who is appointed by the court and approved by OPDC to assist in or share the responsibility of representing a client.

**Contract Administrator:** A person responsible for administering a contract with OPDC.

to provide services to persons qualifying for court appointed counsel.

**Counsel - Contract:** An attorney providing legal representation to persons qualifying for court appointed counsel pursuant to a contract with the OPDC.

**Counsel – Non-Contract:** An attorney who accepts case assignments to represent persons entitled to public defense services at an hourly rate.

**Increased Hourly Rate:** An hourly rate approved by the OPDC which exceeds the standard rate for attorneys appointed to cases from the Oregon Judicial Department (OJD) Unrepresented List and investigators providing services on those cases.

**Investigator:** A person who is a qualified investigator, including a mitigator, and who engages in the business of obtaining or furnishing information to be used by Counsel in their legal representation of a client.

**MAC:** Maximum Attorney Caseload

**Routine Expense:** Reasonable fees and expenses associated with the representation of a person who is determined to be financially eligible and who is represented by court-appointed Counsel in the proceeding or on appeal that are required to be paid by the state and do not need preauthorization.

**Service Provider:** A licensed, certified, or otherwise authorized person or entity performing case related non-attorney services for preparation and presentation of the case for trial, negotiation, and sentencing.

**Unrepresented Person:** A person determined to be eligible for representation by court-appointed counsel at state expense and listed on the Oregon Judicial Department's "OPDC".

Unrepresented" list, hereinafter referred to as the "OJD Unrepresented List."

## **POLICY**

### **Temporary Policy to Increase Hourly Rate (Expires December 31, 2024)**

This temporary policy is adopted in response to a shortage of contracted public defense providers in the state of Oregon. A person who has been found eligible for court-appointed Counsel may be without Counsel because providers in the jurisdiction do not have capacity to take additional cases. Appointments made after December 31, 2024, are not eligible for the increased rate.

The Oregon Judicial Department, in collaboration with circuit courts throughout Oregon, maintains a list that includes only those clients who have active cases in the trial court and for whom the trial court, due to the capacity of local providers, conflicts or multiple Counsel withdrawals, cannot find contract Counsel to represent the person.

When a court requests assistance to locate representation for a qualified *in-custody* unrepresented person, OPDC will evaluate availability of qualified resources, locate counsel, and contact the court to confirm acceptance of the appointment. An attorney may request an adjustment in the hourly rate in certain circumstances (*e.g.*, new charges, increased severity of charged offenses). Any request for adjustment in the hourly rate must be submitted in writing using the form designated by OPDC.

**OPDC must approve all increased hourly rates and adjustments under this policy.**

By accepting any public defense case assignment or related work, Counsel and other Service Providers agree to comply with all OPDC policies and procedures as may be amended from time to time.

### **Counsel and Investigator Hourly Rate Increase**

OPDC has established increased hourly rates for Counsel who accept case appointments from the OJD Unrepresented List and for Investigators who provide services on those cases. Both Counsel and Investigator must meet eligibility requirements established in this and any other OPDC policies. (See Hourly Rates for Unrepresented Persons)

### **Unrepresented Person**

A person is eligible for assignment of Counsel under this policy when all the following criteria apply:

Policy Name: Temporary Hourly Increase Policy

Page 2 of 4

1. Financially qualified and constitutionally or statutorily entitled to representation by appointed Counsel at state expense
2. Client is ***in custody*** and listed on the OJD Unrepresented List. Appointments to cases other than ***those where the client is in custody*** and on the OJD Unrepresented List are not eligible for the rate increase unless authorized by OPDC.

### **Eligibility Criteria**

Counsel who meets the criteria below and who accepts a case appointed from the OJD Unrepresented List are eligible for a rate above the Guideline of Scheduled Amounts. OPDC has established Increased Hourly Rates which are **ONLY** applicable for cases appointed under this policy. Once approved, the rate would apply to all legal representation or investigation services for the duration of the case.

### **Non-Contract Counsel**

Non-Contract Counsel will be considered for assignment under this policy only when all the following criteria apply:

1. Within the previous two years, Counsel has submitted an Attorney Qualification form and has been approved by OPDC to accept appointments for specified case types.
2. Counsel does not currently provide public defense representation pursuant to an OPDC contract.
3. Counsel enters an agreement, as provided by OPDC to provide legal representation to eligible clients.

### **Contract Counsel less than 1.0 MAC**

Counsel contracted for less than 1.0 MAC will be considered for assignment under this policy only when all the following criteria apply:

1. Within the previous two years, Counsel has submitted an Attorney Qualification form and been approved by OPDC to accept appointments for specified case types.
2. Counsel, or a law firm that employs counsel, enters an agreement, as provided by OPDC, for Counsel to provide legal representation to eligible clients.
3. Counsel submits the form designated by OPDC certifying that they can accept appointment to the client and case(s) and continue to provide zealous representation to all of their public defense clients.

### **Contract Counsel at 1.0 MAC**

Counsel contracted for 1.0 MAC will be considered for assignment under this policy only when all the following criteria apply:

1. Within the previous two years, Counsel has submitted an Attorney Qualification form and been approved by OPDC to accept appointments for specified case types.
2. OPDC has confirmed through a review of Counsel's caseload reporting that Counsel has reached their contracted 1.0 MAC.
3. Counsel, or a law firm that employs counsel, enters an agreement, as provided by OPDC, for Counsel to provide legal representation to eligible clients.
4. Counsel submits the form designated by OPDC certifying that they can accept appointment to the client and case(s) and continue to provide zealous representation to all of their public defense clients.

### **Eligibility Criteria for Investigator**

Investigators who accept or who are currently providing services related to cases that were assigned to Counsel from the OJD Unrepresented List are eligible for a rate above the Guideline of Scheduled Amounts **AFTER October 20, 2022**. OPDC has established an Increased Hourly Rate which is **ONLY** applicable for services on cases assigned under this policy. Once approved, the rate would apply to all investigation services for the duration of the case.

Investigators who are employed by a Contract Administrator who perform services related to cases assigned under contract are not eligible for the Increased Hourly Rate.

Policy Name: Temporary Hourly Increase Policy

## **Case Support Services and Invoice Submission**

Invoices for all fees and expenses payable should be submitted minimally every 90 days and are subject to review. OPDC shall determine whether the amount is necessary, reasonable, and properly payable from public funds. Counsel must submit all necessary and reasonable fees and expenses for legal representation consistent with the OPDC payment policy.

CSS requests for investigation for cases from the OJD Unrepresented List must use the long form.

Investigators who are providing services related to cases assigned from the OJD Unrepresented List must submit a separate invoice for services through October 19, 2022, and for services from October 20, 2022, forward.

## **Legal Representation Fee “Soft Caps”**

OPDC has established initial “soft caps” related to representation service fees for each case appointed from the OJD Unrepresented List and will monitor the amount of compensation paid to Counsel per case assignment.

The soft cap may be waived, and an increased soft cap approved by OPDC. The representation soft cap applies only to Counsel service fees paid at the increased hourly rate. Any request for service fees over the initial or any subsequent soft cap must be preauthorized by OPDC prior to services for which total compensation may exceed the established limit.

OPDC will initially evaluate requests to exceed the initial and any subsequently approved soft cap for a case by first evaluating whether the hours spent on the case exceed the average expected time that “The Oregon Report”, prepared by the American Bar Association and Moss Adams and published in 2021, found should be expended on a typical case of that type.

For those cases that are expected to exceed both the initial and/or any subsequently established soft cap OPDC will consider requests from Counsel using criteria including, but not limited to, the following.

Case type

Whether multiple counsels are appointed to the case

Whether the case is likely to go to trial

Whether the case can be classified as an extraordinary case under OPDC standards

Any extraordinary pressure of time or other factors under which services were rendered

Whether more time is reasonably required for total processing than the average case, including pre-trial and post-trial hearings

Requests to exceed the applicable soft cap for a case type and any subsequently established soft cap must be submitted in writing using the form designated by OPDC.

## Hourly Rates for Unrepresented Persons

Effective July 1, 2024, for all appointments to in-custody unrepresented persons/cases.  
Expires June 30, 2025 – will not apply to new cases/appointments after this date.

Hourly Rate	“Soft Cap”	Case Type
\$164	\$10,000 to \$50,000	Misdemeanor, contempt, and probation violation; Class C felony and felony drug possession; Class A and B felony, juvenile delinquency, juvenile probation violations, habeas corpus, post-conviction relief, civil commitment, and Psychiatric Security Review Board cases; waiver co-counsel; discretionary co-counsel; material witness representation; fugitive/extradition; appeals
\$175	\$50,000	Ballot Measure 11 and felony sex offense; Juvenile delinquency cases in which underlying charge is equivalent to BM11 or felony sex offense.
\$200	\$75,000	Murder and Jessica’s Law (including mandatory co-counsel); capital appeals/PCR; cases subject to ORS 137.719 and ORS 137.690.

The investigation and mitigation rate on cases assigned under this program is \$75/hour.



**Oregon  
Public  
Defense  
Commission**

**Date:** December 6, 2024

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

**Cc:** Jessica Kampfe, Executive Director

**From:** Kimberley Freeman, CAP Manager  
Amy Schabert, Senior Policy Analyst

**Re:** Pre-Authorized Expenses (PAE) policy

**Background:**

On September 18, 2024, the Commission approved changes to the Pre-Authorized Expenses (PAE) policy. Since that time, the Agency has received both internal and external feedback. During the last year, this policy has been before the commission quarterly to review. Going forward, the Agency intends to present revisions once every six months or as changes are needed. The following sections of the policy have been changed:

- Section 1.1 & 1.2 & 2.1 & – 180 days replaced with one year.
- Section 1.2 – changed authorization to “effective”
- Section 2 – Updated to include new page on website for Pre-Authorized Expenses. Language removed regarding .pdf forms in anticipation of Nintex form going live in January, 2025.
- Section 2.1 – Removed language “or approval date, whichever is greater”. Changed from 180 days to one year.
- Section 2.2 – Moved language to section 3.13 for clarity.
- Section 2.3 – Added “either in full or” for clarity
- Section 2.4 - Added language regarding reconsideration panel members.
- Section 3.13 – Added language from Section 2.2.
- Section 3.19 – Addressed travel time surrounding cancellations and missed evaluations

**Agency Recommendation:**

Approve Pre-Authorized Expense policy changes.

**Fiscal Impact:**

None

**Agency Proposed Motion:**

Agency recommends the Commission approve the proposed changes listed above for the Pre-Authorized Expenses (PAE) Policy effective January 1, 2025, which will supersede any prior memo or policy.

<u>POLICY NAME:</u>	Pre-Authorized Expenses	<b>Number: 404.060.001</b>
<u>DIVISION:</u>	Administrative Services	<b>Effective Date: 1/1/2025</b>
<u>RESPONSIBLE SECTION:</u>	Pre-Authorized Expenses Division	
<u>APPROVED:</u>	Oregon Public Defense Commission	<b>Approval Date: 12/6/2024</b>

**PURPOSE:** Establishes eligibility, criteria, service types and time frames for which authorization of Pre-Authorized Expenses (PAE) (formerly Case Support Services) will be considered.

**AUTHORITY:** ORS 151.216, 151.225(1)(c), 419A.211, 419B.201, 419B.518, 419C.206

**APPLICABILITY:** This policy applies to all requests for authorization of Pre-Authorized Expenses (PAE) submitted to OPDC and supersedes any previous memorandum or version of the policy.

## **POLICY**

### **SECTION 1 – IN GENERAL**

Persons determined to be eligible for court-appointed counsel are entitled to necessary and reasonable fees and expenses for investigation, preparation, and presentation of the case for trial, negotiation, and sentencing. This includes persons who are *pro se* or have retained counsel but who are found by the court to be financially eligible for appointed counsel. OPDC does not need a copy of the order authorizing expenses, but the order must be reflected in OECL.

By accepting any public defense case assignment or related work, vendors agree to comply with all OPDC policies and procedures as may be amended from time to time.

Requests for authorization of expenses must be submitted by Counsel other than where statute specifically allows otherwise.

The total anticipated service fees and out of pocket expenses that will be incurred between the effective and expiration date of an Authorization must be outlined in the submitted request. Authorizations may include services hours to be performed out of the state of Oregon. A separate request must be submitted for any case related travel expenses, not included on the original Authorization, referencing the related PAE number.

OPDC shall review each request and determine whether the amount is necessary, reasonable, and properly payable from public defense funds. Pre-authorization does not guarantee payment of any fee or expense that is later determined to not be necessary or reasonable at the time the fee or expense was incurred. If the expense is determined to not be necessary or reasonable the invoice may be denied.

The Schedule of Guideline Amounts establishes expected rates for most fees and expenses. The amounts shown are not equivalent to a pre-approved cost and is not a substitute for pre-authorization.

Services must be obtained within the parameters outlined in the Schedule of Guideline Amounts whenever possible. Counsel should first attempt to secure providers within their jurisdiction or a neighboring jurisdiction. A qualified in-state Service Provider or expert is required unless none are available, or the use of an out-of-state expert is more economical and has been authorized by OPDC.

OPDC will fund expenses only if the expense was preauthorized and it is at the rate indicated in Schedule of Guideline Amounts or, if at a higher rate, only when Counsel has shown compelling circumstances and OPDC has authorized the higher rate.

### **1.1 Responsibilities of Counsel or Person Who Is *Pro Se***

Counsel and *pro se* persons who receive authorization for services must:

- **Before incurring costs for services expected to be paid from public defense funds**, ensure that any prospective Service Providers are aware of OPDC policies and the Schedule of Guideline Amounts.
- Forward a copy of the Authorization form from OPDC to the Service Provider.
- Maintain oversight of services and provide ongoing communication with the Service Provider regarding the status of the case, including when a case has been closed and services are no longer required.
- Certify completed services. Once OPDC has developed a formal process and implemented a case management system, counsel shall review service provider's invoice to verify that services performed are consistent with that approved in the pre-authorized expense request. Certification will be accepted via signature on the invoice, or an email attached to the invoice that notes the client's name, case number, and service start and end dates shown on the invoice. This requirement does not apply to *pro se* persons.
- Authorizations do not transfer. If Counsel withdraws or new Counsel is appointed, any unused PAE shall be inactivated, and new counsel shall seek pre-authorization of any reasonable and/or necessary expenses. Any PAE that has had work performed shall be submitted for payment within **one year [180 days]**.

### **1.2 Responsibilities of Service Providers**

Service Providers must obtain and review a copy of the Authorization. The Authorization is sent to and should be obtained from Counsel that requested the service. The Authorization will specify the service hours and expenses authorized and should be reviewed prior to performing any services. The Service Provider must submit a copy of the Authorization with their invoice. The Authorization is sent to and can be obtained from the Counsel who requested the service.

Service providers must perform the services and submit the bill within **one year [180 days]** of the **effective [authorization]** date unless an exception has been granted on the Authorization.



Service Providers who perform services are responsible for complying with all applicable requirements, including but not limited to, licensing that the State of Oregon or another state or country may require for the performance of services in those jurisdictions.

### **1.3 Engaging Relatives for Compensable Services**

Prior to engaging any relative or member of the household, as defined by ORS 244.020, counsel should first provide notification of the relationship and potential services to OPDC.

An individual appointed, employed, promoted, or advanced in violation of this section is not entitled to pay, and may not be paid from public defense funds.

### **1.4 Expenses Incurred Prior to Authorization**

Under limited circumstances, OPDC may authorize an expense after the expense has been incurred. An explanation of the exigent circumstances that required the expense to be incurred before requesting pre-authorization or before OPDC could act on a request is required. Exigent circumstances DO NOT include requests that Counsel failed to submit before services were needed.

### **1.5 Rush Requests**

Requests to “rush” processing of a request for pre-authorization will only be considered for trial or other major court events impacting the case in two weeks or less, or when an expert services appointment is available in the next two weeks and must be booked to preserve it.

### **1.6 Contact Information**

Pre-Authorized Expense Requests & Reconsideration Inquiries: [CSS@opds.state.or.us](mailto:CSS@opds.state.or.us)

## **SECTION 2 – REQUESTS FOR PRE-AUTHORIZATION OF EXPENSES**

A request for pre-authorization of expenses must be submitted on the Pre-Authorized Expense Request form. The request must include the total expected maximum number of hours of services, maximum amount of fees and expenses including any anticipated need for travel to be completed during the term of the Authorization. All requests are subject to review. OPDC will determine whether the request for services and the outlined expense is necessary, reasonable, and properly payable from public defense funds. Requests will be reviewed within 5 business days of receipt as staffing allows.

Authorizations may include fees for services performed out of the state of Oregon. A separate request must be submitted for any case related travel expenses, not included on the original Authorization, referencing the original related PAE number.

The PAE policies, **forms, form instructions and FAQ's are posted on the Pre-Authorized Expense page of the OPDC website at** (<http://www.oregon.gov/opdc/provider/pages/PAE.aspx>). [submitted must be the most current version available on the OPDC website (<http://www.oregon.gov/opdc/provider/pages/forms.aspx>)].

All information must be completed on the form, including the highest case type of all related cases, and it must be signed by counsel, or the request will be denied.

The Pre-Authorized Expense Request form is submitted by clicking the “Click here to email this request to OPDC” button at the end of the form. This generates an email to the OPDC PAE team with the form attached for processing. The form may also be submitted by email to OPDC at [CSS@opds.state.or.us](mailto:CSS@opds.state.or.us). The case information (case name, number, county, highest case type) must be entered on the form and will be verified with the Oregon eCourt Case Information (OECI).—

Policy Name: Pre-Authorized Expenses

Each Authorization can only be invoiced against once. Any invoice submitted a second time on a single Authorization will be denied.

Requests for authorization of services may be submitted as often as needed to provide necessary and reasonable services including for additional services on the same case during the original Authorization term.

Court-appointed Counsel must have submitted an Attorney Qualification form within the previous two years and been approved by OPDC to accept appointments for specified case types in order to process the requests for Authorizations.

### **2.1 Authorization Effective Date and Expiration**

If a request is authorized, OPDC will generate a Pre-Authorized Expenses Authorization with the effective date. This Authorization must be submitted with the related invoice. The Authorization effective date will generally be no earlier than the date counsel was appointed.

Authorizations expire **one year** ~~[180 days]~~ from the effective date ~~[or approval date, whichever is greater,]~~ of the Authorization. ~~unless counsel has provided sufficient reason for OPDC to grant an extension.~~ Providers shall complete services and bill on the invoice **prior to the expiration date listed on the Authorization.** ~~[within 180 days of the effective or approval date, whichever is greater, on the Authorization.]~~ Invoices for services for which the Authorization has expired will not be paid.

### **2.2 Overhead Expenses**

Overhead expenses, including services performed by an employee or an independent contractor of Counsel or Service Provider, are not reimbursable, except in extraordinary circumstances with the pre-authorization of OPDC. Overhead expenses, except as otherwise expressly provided in this policy, include, but are not limited to:

1. Travel time and expense between home and office
2. Paraprofessional Services (law clerk, legal assistant, paralegal, administrative, and secretarial services)
3. Timekeeping and bill preparation
4. Rent and utilities
5. Office equipment and supplies, including flash drives and other storage devices or other item purchased in bulk that cannot be associated with a specific case.
6. Library materials
7. Computerized legal research software, installation, and monthly access fees.

Overhead expenses will only be authorized as pre-authorized expenses if OPDC determines that the expense is necessary and reasonable, and the agency concludes funding the requested expense would be more cost-effective than not doing so.

~~PAE requests for paraprofessional services in Murder cases are typically allowed. (Moved to 3.13)~~

### **2.3 Amendment of Authorization**

OPDC will consider requests for amendment of an Authorization only when the request to amend the Authorization is made within 30 days of issuance and no payment has been made on the Authorization for approved services.

PAE authorizations that have been paid **either in full or** in part shall NOT be sent back to the PAE division for reconsideration or amendment. A new PAE request shall be prepared by Counsel and submitted.

If there is a change in Service Provider a new request for authorization must be submitted.

## **2.4 Reconsideration**

If a request for pre-authorization is denied or approved in part, it will be reflected on the Pre-Authorized Expense Authorization.

Counsel may request reconsideration of the denial or partial approval via email at [CSS@opds.state.or.us](mailto:CSS@opds.state.or.us). The email must have **RECONSIDERATION REQUEST** in the subject line. The request must include the PAE authorization number and any additional rationale or documentation, and it must be submitted within 30 days of the denial or processed date. It will be reviewed by the Reconsideration Panel for approval or denial within 10 business days.

The reconsideration panel will consist **of representatives from the agency as determined by the Executive Director.** ~~[the Pre-Authorized Expense Division, General Counsel and Budget.]~~ All decisions of the reconsideration panel are the final decision of the agency.

Pursuant to ORS 135.055, an appeal of the panel's decision must be submitted to the Presiding Judge in the court in which the subject case is pending or the Chief Judge or Chief Justice when the request involves an appellate case. All motions requesting the court's review must be in writing, filed with the court within 21 days of the date of the reconsideration denial, and served on OPDC via email at **PAE.Recon.Panel@opdc.state.or.us.** ~~[CSS@opds.state.or.us]~~. The court shall review the agency's decision pursuant to an abuse of discretion standard. The court shall notify the provider and OPDC when a decision has been made.

## **2.5 Confidentiality**

ORS 135.055(9) prohibits disclosure of requests and administrative orders for pre-authorization of non-routine fees and expenses, and billings for such fees and expenses, to the district attorney before the conclusion of the case.

ORS 135.055(10) permits disclosure to the district attorney of the total amount of moneys determined to be necessary and reasonable for non-routine fees and expenses at the conclusion of the trial in the circuit court.

ORS 40.225(5) provides that the lawyer-client privilege is maintained for communications made to OPDC for the purpose of seeking pre-authorization for, or payment of, non-routine fees or expenses.

ORS 192.355(4) exempts from disclosure under the Public Records Law information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure.

OPDC will keep confidential all information regarding the cost of representation of a client and Pre-Authorized Expenses in a particular case, except as follows:

- 1) OPDC may release, upon request at the conclusion of the case, the total amount of money paid for representation in the case.
- 2) OPDC shall disclose information regarding the cost of representation and Pre-Authorized Expense requests in a particular case to:

Policy Name: Pre-Authorized Expenses

- (a) Counsel who represents or represented the Client in the case.
  - (b) Counsel who represents the Client in a matter arising out of a particular case.
  - (c) To the client, upon written request from the Client, except that OPDC shall not disclose information to the Client that it is prohibited from disclosing under state or federal law.
- 3) OPDC may disclose to appropriate authorities' information regarding the cost of representation and Pre-Authorized Expense requests when such information is reasonably believed to be evidence of, or relevant to, alleged criminal activity on the part of the court-appointed Counsel or other OPDC paid Providers.
- 4) OPDC may disclose information regarding the cost of representation and Pre-Authorized Expense requests in a particular case in response to a subpoena for records following the conclusion of the case if the court issues a protective order.
- 5) OPDC shall disclose information regarding the cost of representation and Pre-Authorized Expense requests as otherwise required by law.

This policy does not prohibit OPDC from disclosing statistical information that cannot be identified with any particular case.

### **SECTION 3 – EXPENSES THAT REQUIRE PRE-AUTHORIZATION**

The following services may be funded if the agency, after having reviewed the request for Pre-Authorized Expenses, concludes the proposed service and expenditure is necessary and reasonable for investigation, preparation, and presentation of the case for trial, negotiation, and sentencing.

#### **PERSONNEL:**

##### **3.1 Alternative Sentencing Evaluation (OPE)**

An Alternative Sentencing Evaluation consists of a client interview, LS/CMI risk assessment, and ASAM evaluation and concludes with a written report. OPDC will consider requests for Alternative Sentencing Evaluations only when the presumptive sentence is a prison sentence.

##### **3.2 American Society for Addiction Medicine (ASAM)/Drug and Alcohol Evaluation**

OPDC will authorize an ASAM evaluation to assess and diagnose the client's chemical dependency when it is reasonable and necessary to investigate, prepare, and present the case. OPDC will not authorize an ASAM evaluation as a substitute for another agency (*e.g.*, Oregon Department of Human Services) fulfilling its obligation under statute, regulation, or court order to provide this service. An ASAM evaluator must have their current license on file with OPDC.

##### **3.3 Associate/Research Counsel**

Counsel may seek funding for an attorney to serve as Associate/Research counsel to assist with legal research or case preparation. Associate/Research counsel does not serve as an expert, is not appointed to the case and does not provide direct client representation. Associate/Research counsel may be approved in cases where it's reasonable and necessary, *i.e.*, murder, juvenile waiver, cases subject to ORS 137.719 and 137.725, Jessica's Law cases or any case in which OPDC deems an Associate/Research attorney is reasonable and necessary. The temporary hourly increase program rates do not apply to Associate/Research counsel approvals.

Policy Name: Pre-Authorized Expenses

### **3.4 Case Managers and Social Workers**

Case managers and social workers may be authorized when necessary and reasonable. Case managers and social workers must have:

- a Bachelor's or higher level degree in Social Work/Human Services or a closely related field; OR
- a Bachelor's degree in a field not closely related to Social Work/Human Services and one year of human services related experience (*i.e.*, work providing assistance to individuals and groups with issues such as being economically disadvantaged, unemployment, abuse and neglect, substance abuse, aging, disabilities, inadequate housing).
- a combination of equivalent experience in related fields including lived experience in the criminal and juvenile systems. Providers requesting approval based on lived experience in recovery must have a minimum of three years documented sobriety and shall possess a Certified Recovery Mentor (CRM) or Peer Wellness Specialist (PWS) certificate. Other certificates or programs that offer similar training around peer support may also meet this criteria.

Mileage and/or time spent transporting a client is not compensable. Travel time is included in the hours authorized.

### **3.5 Dual Diagnosis Evaluation**

An evaluation consisting of a client interview, multi-level assessments, and possible interviews of others to determine if a person meets the criteria for a diagnosis of both a substance abuse disorder and a mental health disorder.

### **3.6 Expert Attorney Services**

In post-conviction relief cases, or other cases in which a lawyer's duties or standard of care is an issue of fact, Counsel may seek funding for an attorney to serve as an expert. Additionally, Counsel may seek funding for an attorney if the case requires specialized legal advice.

Counsel may secure immigration advice for their clients, in accord with *Padilla v. Kentucky*, through the agency's designated immigration counsel vendor. An attorney other than the agency's designated vendor will only be funded if a legal conflict of interest exists or if OPDC's designated vendor is unavailable.

Ethics counsel is an overhead expense and will not be funded.

### **3.7 Forensic Experts**

An expert from one of the many different fields of science that can be applied for forensic investigations including but not limited to:

- Accident Reconstruction
- Arson
- Ballistics
- Biology
- Biomechanical Engineer
- Computer
- Criminalist
- Fingerprint
- Handwriting
- Linguistics
- Toxicologist
- Traffic Engineer
- Use of Force

Overhead expenses such as photocopies, postage or telephone calls are considered part of the Provider's rate and not subject to reimbursement.

### **3.8 Interpreters and Assistive Communication Devices**

Pre-Authorization is only required if the interpreter's rate exceeds the rate listed in the Schedule of Guideline Amounts OR if there is not an OJD Certified or Registered interpreter available. Pre-Authorization is not needed for interpretation within the guideline rates for authorized investigation, mitigation, psychiatric and polygraph services.

Mileage out of the state of Oregon over 100 miles must be preauthorized.

Except as provided in ORS 45.275(7) (Appointment of interpreter for non-English-speaking party, witness, or victim), an interpreter is subject to the provisions of the Oregon Evidence Code relating to qualification as an expert and the administration of an oath or affirmation that the interpreter will make a true and impartial interpretation of the proceedings in an understandable manner using the interpreter's best skills and judgment in accordance with the standards and ethics of the interpreter profession.

Interpreters who are certified by the Office of the State Court Administrator, under ORS 45.291 for out-of-court attorney/client communication, must be used unless none are available. The State Court Administrator establishes categories of certificates based on the nature of the interpreter services to be provided, including categories for interpreters for persons with disabilities and non-English-speaking persons. If no certified interpreter is available, counsel must use a qualified interpreter, as defined in ORS 45.275(8)(c).

### **3.9 Investigators**

Counsel shall submit requests for investigation using the case number with the highest charge. Counsel should not submit a request for each case number. To be funded for investigation services the person must be licensed by the Department of Public Safety Standards & Training.

All requests for and approvals of investigation services must include a conservative, projected maximum expense for services and number of hours. The hourly rate includes all overhead expenses. Travel time is included in the hours authorized. Mileage outside of the state of Oregon over 100 miles must be preauthorized.

To receive reimbursement to counsel for investigation, the services requested and performed must be for an employee, that is not already funded under contract. OPDC will only reimburse counsel at the rates set in the Schedule of Guideline Amounts.

### **3.10 Medical Experts**

Medical experts include, but are not limited to, doctors, nurse practitioners, nurses, physical therapists, occupational therapists, chiropractors, speech therapists, hematologists, radiologists, sleep pathologists, veterinarians, pharmacists, and geneticists.

### **3.11 Mental Health Professionals**

Mental health professionals include psychiatric nurse practitioners, psychologists, psychiatrists, and neuropsychiatrists. OPDC will authorize an evaluation by such a mental health professional when it is reasonable and necessary to investigate, prepare, and present the case. OPDC will not authorize a mental health, psychological, neuropsychological, psychiatric, or neuropsychiatric evaluation as a substitute for another agency (*e.g.*, Oregon Department of Human Services) fulfilling its obligation under statute, regulation, or court order to provide the service.

When a mental health expert is required to testify, trial Counsel should accommodate those witnesses, and whenever possible, attempt to take their testimony out of order.

### **3.12 Mitigators**

Mitigation specialists gather and investigate historical data and anecdote into a client and their life. The client background research includes but not limited to, investigating a client's formative experiences including traumas, cognitive functioning, mental health, physical health, addiction, religious background, traumatic brain injuries, substances/toxin exposure in utero and through life, genetics, environmental factors, and family health histories. A mitigation specialist assists the attorney by documenting these factors through records and interviews to integrate this information into the client's defense. Mitigators shall, at the minimum, be licensed by the Department of Public Safety Standards & Training. Mitigators may be available in cases where it's reasonable and necessary, i.e., murder, juvenile waiver, cases subject to ORS 137.719 and 137.725, Jessica's Law cases or any case in which OPDC deems a mitigator is reasonable and necessary.

Travel time is included in the hours authorized.

### **3.13 Paraprofessional Services**

OPDC will consider requests from non-contract hourly counsel for paraprofessional services, such as legal assistants, law clerks, legal secretaries, paralegals (non-attorney & attorney), litigation support & data management, to assist Counsel with non-legal services, including file redaction and file organization.

**PAE requests for paraprofessional services in Murder cases are typically allowed. Requests may be considered on other complex cases where there are extraordinary circumstances, and when sufficient justification is provided.**

Contract counsel is required to secure, at their expense in whole or in part from contract funds, any support services necessary to perform contract obligations. Contract counsel may be reimbursed for paraprofessional services as a Pre-Authorized Expense at the rate shown in the Schedule of Guideline Amounts only when OPDC determines there are extraordinary circumstances as outlined in the Overhead section of this policy.

To receive reimbursement to counsel, the paraprofessional services requested and performed must be for counsel's employee. Counsel may not seek reimbursement for an employee that is already funded through overhead under contract. OPDC will only reimburse counsel at the rates set in the Schedule of Guideline Amounts. In all other instances payment shall be paid directly to the service provider.

Any request for authorization must include a description of the tasks to be assigned.

### **3.14 Polygraph Examinations**

Polygraph services will only be authorized when the service is necessary for case negotiation and resolution.

OPDC will not authorize polygraph expenses for testing the truthfulness of communications between a client and appointed counsel.

### **3.15 Process Servers and Other Personnel to Secure Witnesses**

Counsel shall use the most economic method available for process service. Service may be effectuated by the Sheriff pursuant to ORS 21.300, an investigator, or a process server.

In circumstances where counsel needs an out-of-state court order to compel the appearance of an out-of-state witness, counsel may retain the services of an out-of-state attorney at the hourly attorney rates published in this policy.

### **3.16 Testimony rates**

OPDC does not, as a matter of course, authorize differing rates for vendor services based upon whether a vendor testifies.

### **3.17 Transcription Services**

Transcription is the process of converting a stenographic or electronically recorded word into a written document. The rate for transcription services of court proceedings is set by ORS 21.345. A rate exception may be made for audio transcription that is a rush and/or inaudible. Rate exceptions shall not exceed \$1.00 above the rate set by statute, even if both exceptions are applicable.

OPDC may pay additional rates for transcription of recorded word that is not associated with a court proceeding, but only if it is requested before the expense is incurred and only when appointed Counsel has shown compelling circumstances and authorization is granted by OPDC.

In addition to the page rate, OPDC may reimburse a person providing transcription services for:

- Costs incurred attending depositions
- Appearance fees
- Time spent reviewing notes or similar tasks related to preparing transcripts

OPDC will pay for one original but no copies of a transcript.

Grand Jury transcripts are considered routine expenses and do not require pre-authorization when billed at the guideline rate. Transcript requests that exceed the guideline rate require pre-authorization.

### **3.18 Translation and Transcription Services**

Interpretive services not related to attorney-client or court communication, such as translation and transcription of recorded discovery, interviews, or other audio or video, must be preauthorized. A Forensic Transcription Translation will only be provided if the service is reasonable and necessary.

### **3.19 Cancellations and Missed Evaluations and/or Examinations**

In the event any Service Provider schedules an evaluation or examination with a client and the client fails to appear, OPDC will pay the following amounts:

- A maximum of 2 hours at half of the approved hourly rate, OR
- 50% of the flat rate amount approved

**Travel time that has been approved on the PAE authorization will also be paid at half of the approved rate.**

OPDC will not pay for a missed appointment that is attributable to Counsel. Once a client misses two appointments, Service Provider shall submit the PAE for payment, and Counsel and Service Provider shall not schedule another appointment without submitting a new PAE request.

Note that section 3.19 does not apply to interpreters, (see Routine Expense Policy Section 1.5), investigators, mitigators or case managers.



## **SERVICES:**

### **3.20 Client Clothing**

OPDC may authorize the purchase of appropriate attire for court appearances for a client. Counsel must contact contractors who maintain “clothing rooms” to determine whether suitable clothing is available prior to submitting a request to OPDC. If Counsel receives pre-authorization to purchase clothing for a client, that clothing must be provided to a “clothing room” upon completion of the case. Dry cleaning or commercial laundering of purchased or borrowed clothing, prior to return or donation to a “clothing room,” is reimbursable without pre-authorization.

### **3.21 Lay Witness Travel Expenses**

All lay witness related travel expenses including meals, lodging, rental car, rideshare and/or airfare require pre-authorization.

### **3.22 Travel-Related Compensable Time**

Travel time must be pre-authorized. Except as limited by this section, hours spent in-transit between a specified point of departure and destination may be invoiced as travel time at the provider’s full rate. If the service requested is a flat rate travel time shall not exceed \$75/hr.

Once the destination has been reached, hours spent at the destination may not be counted as hours in-transit. However, service hours spent working on a case at the specified destination, may be invoiced accordingly.

Time in transit between home and office, home and a court, or office and a court within assigned jurisdiction are not compensable for Counsel. Assigned jurisdiction is defined as the county where Counsel’s office is, as reflected in Counsel’s business registration with the Secretary of State.

Time in transit between home and office is not compensable, but time in transit between office and a court is compensable for Service Providers.

Time spent transporting a client is not compensable.

Time spent in or awaiting transit is compensable. When possible, case work should be done in transit.

### **3.23 Travel Expenses**

Travel expenses must be authorized before the expenses are incurred. Mileage, meals, lodging, airfare, and other similar travel costs must be pre-authorized except for mileage and parking specifically outlined in the Routine Expenses Policy.

All out-of-state travel related expenses (i.e., airfare, lodging, car rental, etc.) and mileage 100 miles or more must be preauthorized.

Traveler must plan with establishments that offer General Services Administration (GSA) or commercial rates where available. GSA rates can be reviewed at <https://www.gsa.gov/travel/plan-book/per-diem-rates>. **If GSA rates are unavailable, written documentation from the hotel or car rental establishment should be requested when informed that a higher rate will be necessary due to a lack of availability at approved rates.** Documentation, with an explanation of what exigent circumstances exist that required you to incur the expense without requesting pre-authorization, must be submitted with the invoice.

OPDC does not amend travel Authorizations for GSA rates. Please request written documentation **from the hotel or car rental establishment** when you are informed that a higher rate will be necessary due to a lack of availability at approved rates. Please include that documentation and an explanation when you submit your invoice. This will provide the documentation we need to consider payments over the preauthorized amount. Submitting this with your invoice will eliminate the need for our accounts payable team to reach out for clarification which slows processing time.

### **3.24 Airfare**

Traveler must fly coach regardless of funding source unless the difference is paid from the traveler's personal funds.

Arrangements for airfare must be made through OPDC and the expense will be sent directly to OPDC. When a request for airfare is preauthorized, OPDC will notify the travel agency that holds the state contract that the expense has been approved. OPDC will provide the travel agency with the pertinent information regarding the trip. Counsel or the Service Provider must contact the travel agency to make the travel arrangements.

Travel arrangements must be booked within **60 days** of the PAE Authorization effective date.

Airfare may be purchased outside the state contract only with prior approval from OPDC. The purchase price of the ticket must be less than the available contract price and the ticket must be paid for in advance. Cancellation insurance is suggested. Additional costs incurred because the Provider failed to obtain cancellation insurance are not reimbursable.

### **3.25 Car Rental**

Arrangements for a rental car may be made through the travel agency that holds the state contract for airfare.

Travelers must rent a compact car from the least expensive rental agency. Rental of any other size or type of vehicle must be specifically justified and approved. Any insurance costs related to the car rental are the responsibility of the vendor. **If a compact car is unavailable, written documentation from the car rental establishment should be requested.**

OPDC will reimburse for fuel, not mileage, upon submission of an original receipt.

### **3.26 Lodging**

Lodging expenses must be preauthorized. Original receipts must be submitted with the Mileage and Travel worksheet. If lodging is required in multiple cities, separate Authorizations must be requested.

Lodging will be reimbursed for total cost of lodging, including taxes using the Federal GSA per diem amounts. OPDC will not pay for cleaning fees or incidentals unless the total cost is less than or equal to the applicable per diem rate. To be eligible to request lodging reimbursement, travel must be more than 50 miles one way from counsel's assigned jurisdiction. Assigned jurisdiction is defined as the county where Counsel's office is, as reflected in Counsel's business registration with the Secretary of State. OPDC is not responsible for any damages or additional fees beyond what is approved in the pre-authorized expense authorization.

The traveler must request a government or commercial rate. If the hotel requires proof of state affiliation, OPDC can provide a letter on the traveler's behalf.

Non-commercial lodging of \$25 may be claimed if it is more economical, and the traveler arranges for the accommodations. The traveler must submit a brief written explanation as to the types of alternate accommodations used unless it was specifically authorized.

The OPDC accounts payable manager may approve direct billing from a hotel. Direct billing must be approved in advance and is reviewed on a case-by-case basis. If approved, Counsel will be responsible for facilitating the lodging arrangements. The direct bill is only valid for that specific lodging and does not include incidentals. Counsel should send requests for direct billing to [AccountsPayable@opds.state.or.us](mailto:AccountsPayable@opds.state.or.us) (Attention: Accounts Payable manager).

### **3.27 Meals**

Meals must be pre-authorized. Generally, a meal allowance will be approved only when lodging is authorized. If lodging was not authorized but the traveler's departure or return time and the distance traveled are such that lodging would be justified, meals may be reimbursed if OPDC determines it reasonable.

To be eligible to request day trip meal reimbursement, travel must be more than 100 miles one way, departure and arrival times are reasonable and align with time(s) services are provided.

Travel times must be provided, meals will be reimbursed at GSA per diem rates applicable to the geographic area and time of travel.

### **3.28 Mileage**

Reimbursable mileage is paid at the rate shown in the Schedule of Guideline Amounts and must be submitted with all information on the Mileage and Travel worksheet.

Mileage over 100 miles out of the state of Oregon must be pre-authorized.

If a private vehicle is used for a trip when the use of a rental car or air travel is an option and is more economical than personal vehicle mileage, OPDC will pay the traveler the amount of the most economical method of travel. When determining the amount to pay, OPDC will consider the overall cost of the trip, including travel time.

Mileage related to transporting a client for any reason including to Counsel's or Service Provider's office, appointments of any kind, the courthouse or other location where a hearing or judicial appearance is scheduled is not an allowable expense and will not be reimbursed.

Approved by: OPDC  
Prepared by: Policy Division  
Reviewed by: Executive Team

Publish: Internally & Externally



**Date:** December 6, 2024

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

**Cc:** Jessica Kampfe, Executive Director

**From:** Kimberley Freeman, CAP Manager  
Amy Schabert, Senior Policy Analyst

**Re:** Schedule of Guideline Amounts

**Background:**

On September 18, 2024, the Commission approved changes to the Routine Expenses policy. Since that time, the Agency has received both internal and external feedback. During the last year, this policy has been before the commission quarterly to review. Going forward, the Agency intends to present revisions once every six months or as changes are needed. The following sections of the policy have been changed:

- Added language regarding THIP sunset date.
- Added LCSW
- Updated meal allowances and added lodging

**Agency Recommendation:**

Approve Schedule of Guideline Amounts changes.

**Fiscal Impact:**

Unknown. Some fiscal impact will occur due to increase in meal allowances.

**Agency Proposed Motion:**

Agency recommends the Commission approve the proposed changes listed above for the Schedule of Guideline Amounts effective January 1, 2025, which will supersede any prior memo or policy.



<u>PROCEDURE NAME:</u>	<b>Schedule of Guideline Amounts (Credentials included)</b>	<b>Number: 404.060.002</b>
<u>RESPONSIBLE SECTION:</u>	Pre-Authorized Expenses Division	<b>Effective Date: 1/1/2025</b>

## INTRODUCTION

This document covers rates paid by the Oregon Public Defense Commission to vendors for services provided in public defense cases and supersedes any previous memorandum or version of the document.

<b>ATTORNEY FEES</b> (Temporary Hourly Increase for Unrepresented list) <b>The Temporary Hourly Increase Program is due to sunset December 31, 2024</b>	
Misdemeanor, contempt, and probation violation, any Class C felony and felony drug possession	\$164/hr. soft cap \$10k
Class A and B felony, juvenile dependency, termination of parental rights, juvenile delinquency, habeas corpus, post-conviction relief, civil commitment, and Psychiatric Security Review Board cases (PSRB), material witness, extradition/fugitive, appeals, waiver co-counsel; discretionary co-counsel	\$164/hr. soft cap \$50k
Ballot Measure 11 and felony sex offenses (Class A, B & C)	\$175/hr. soft cap \$50k
Murder and Jessica's law (including mandatory co-counsel and cases subject to ORS 137.719	\$200/hr. soft cap \$75k

<b>INVESTIGATION</b> (Temporary Hourly Increase for Unrepresented list)	
All case types. No rate exception for bilingual	\$75/hr.

<b>ATTORNEY FEES</b> Effective date: 10/1/2023 (Applies to all appointments not subject to the Unrepresented list)	
Tier 1 – Murder, JLaw, Measure 11, AFEL, BFEL, Appeals, Habeas Corpus, Mandamus, Post Conviction Relief and all Juvenile cases	\$145/hr.
Tier 2 – All other case types	\$130/hr.

ALL OTHER SERVICE PROVIDERS			
Service	Guideline Amount	Hourly Guideline	Required Credentials
Accident Reconstruction	\$150/hr. - \$325/hr.	20 hrs.	
Accountant	\$200/hr. - \$270/hr.		Accountant or forensic accounting degree
Alternative Sentencing Evaluation (OPE)	\$40/hr. \$450/flat rate	7-12 hrs.  Flat rate must be approved and is not guaranteed.	
Arson Expert	\$160/hr. - \$515/hr.	20 hrs.	
American Society for Addiction Medicine (ASAM)/Drug and Alcohol evaluation	\$435/flat rate		QMHA/QMHP/CAD C certification
Associate/Research Counsel	\$145 or \$130 (Tier 1 or Tier 2)	20 hrs.	J.D.
Audio, Video, or Photo Analyst Digital Forensic Analyst	\$165/hr. - \$300/hr.	20 hrs.	

<b>Service</b>	<b>Guideline Amount</b>	<b>Hourly Guideline</b>	<b>Required Credentials</b>
Ballistics/Firearms Expert	\$165/hr. - \$300/hr.	20 hrs.	AA or higher degree in related field or direct ballistics and or firearm investigation field experience
Biomechanical Engineer	\$165/hr. - \$420/hr. \$5,400/flat rate	20 hrs.  Flat rate must be approved and is not guaranteed.	B.S., MSME, PhD, MD (pay scaled to degree)
Case Manager	\$45/hr.	20 hrs.	-A Bachelor's or higher-level degree in Social Work/Human Services or a closely related field; or -A Bachelor's degree in a field not closely related to Social Work/Human Services and one year of Human Services related experience; or -A combination of equivalent experience (see Policy)
Chemist Expert	\$40/hr.	20 hrs.	BA minimum
Criminalist Expert	\$100/hr. - \$220/hr.	20 hrs.	AA to BA education, or DPSST certification for law enforcement experience
DNA Expert	\$190/hr. - \$435/hr.	20 hrs.	Licensed professional
Doctor - General	\$110/hr. - \$270/hr.	20 hrs.	Licensed professional
Doctor - Specialist	\$165/hr. - \$380/hr.	20 hrs.	Licensed professional

<b>Service</b>	<b>Guideline Amount</b>	<b>Hourly Guideline</b>	<b>Required Credentials</b>
Dual Diagnoses/Mitigation reports for mental health and drug addiction	\$130/hr. \$1,300/flat rate	10 hrs.  Flat rate must be approved and is not guaranteed.	QMHA/QMHP and CADC minimum
Eyewitness/Memory Perception	\$165/hr. - \$325/hr.	10 hrs.	PhD or equivalent doctorate level degree
File Conversion	\$27/per file	varies	
File Organization	\$45/hr.	10 hrs.	
Fingerprint Analyst Expert	\$245/hr.	20 hrs.	BA or BS in relevant field (forensic science, biology, criminal justice)
Forensic Expert Computer/Cellphone Analyst Expert	\$165/hr. - \$300/hr. \$2,175 (per unit for information extraction)	25 hrs.	BS in related field (computer science, computer forensics, cybersecurity)
Gang Expert	\$110/hr. - \$270/hr.	20 hrs.	PhD or engagement experience
Guardian Ad Litem	\$130/hr. (attorney) \$50/hr. (non attorney)	10 hrs.	Attorney  non-attorney providers
Geneticist	\$45/hr. - \$320/hr. \$1,090 - \$3,265/flat rate	20 hrs.  Flat rate must be approved and is not guaranteed.	Licensed Professional (MD or PhD)
Handwriting Analyst Expert	\$135/hr. - \$165/hr.	10 hrs.	Direct certification or BA/BS in forensic related field



<b>Service</b>	<b>Guideline Amount</b>	<b>Hourly Guideline</b>	<b>Required Credentials</b>
Hematologist	\$380/hr.	10 hrs.	Licensed professional
Interpreter/Translator and Assistive Communication Devices (spoken languages)	\$57/hr. – certified \$42/hr. – registered \$34/hr. – non-certified		OPDC follows the State Court Administrator's rates and qualifications.
Interpreter - American Sign Language – (OJD Certified)	\$74/hr. - certified	N/A	ORS 45.291 and ORS 45.275
Investigator	\$55/hr. -monolingual \$60/hr. -bilingual	Varies	DPSST certification
Jury Consultant	\$50/hr.	10 hrs.	
Law Student / Clerk	\$15/hr. - \$30/hr.	Varies	
Legal Expert/Consultant Attorney	\$155/hr.		JD
<b>Licensed Clinical Social Worker</b>	<b>\$100/hr. - \$150/hr.</b>	<b>15 hrs.</b>	<b>Licensed professional</b>
Linguist Expert	\$110/hr. - \$165/hr.	15 hrs.	
Litigation Support Expert	\$70/hr. - \$150/hr.	50 hrs.	
Mitigation Specialist	\$70/hr.	25 hrs.	Mitigators shall, at the minimum, be licensed by DPSST.
Neurologist (MD)	\$165/hr. - \$435/hr.	20 hrs.	Licensed professional
Neuropsychologist (PhD/ PsyD)	\$165/hr. - \$435/hr. \$2,180 - \$2,720/flat rate	20 hrs. Flat rate must be approved and is not guaranteed.	Licensed professional

<b>Service</b>	<b>Guideline Amount</b>	<b>Hourly Guideline</b>	<b>Required Credentials</b>
Nurse	\$55/hr. - \$135/hr.	20 hrs.	Licensed professional
Nurse Practitioner	\$110/hr. - \$165/hr.	20 hrs.	Licensed professional
Occupational Therapist	\$220/hr.	20 hrs.	Licensed professional
Other Medically licensed Expert (MD, DO)	\$270/hr. - \$410/hr.	20 hrs.	Licensed professional
Paraprofessional Services (Legal assistant, paralegal and secretarial services)	\$30/hr. - \$55/hr.	Varies	
Pharmacist	\$165/hr. - \$325/hr.	20 hrs.	PharmD
Physical Therapist	\$165/hr.	20 hrs.	Licensed professional
Plethysmography	\$315/hr.	20 hrs.	OHA certification
Polygrapher	\$435/flat rate - \$545/flat rate		DPSST certification
Process Server	\$35/per location	N/A	Service may be effectuated by the Sheriff pursuant to ORS 21.300, an investigator, or a process server.
Psychiatrist (MD)	\$160/hr. - \$380/hr.	20 hrs.	Licensed professional
Psychologist (PhD) (Certified forensic)  Rate is based on years of experience	0-7 yrs. = \$190/hr. 8-15 yrs. = \$200/hr. 16+ yrs. = \$220/hr.  Bilingual receives \$25/hr. more	20-25 hrs.	Licensed professional

<b>Service</b>	<b>Guideline Amount</b>	<b>Hourly Guideline</b>	<b>Required Credentials</b>
Psychologist (PhD) (Non-certified forensic)  Rate is based on years of experience	0-7 yrs. = \$165/hr. 8-15 yrs. = \$175/hr. 16+ yrs. = \$190/hr.  Bilingual receives \$25/hr. more	20-25	Licensed professional
Radiologist	\$270/hr. - \$380/hr.	20 hrs.	Licensed professional
Redaction/Document processing	\$40/hr. - \$130/hr.	15 hrs.	
Sleep Pathologist	\$165/hr. - \$520/hr.  \$2,015 - \$6,050/flat rate	20 hrs.  Flat rate must be approved and is not guaranteed.	Licensed professional
Social Worker (forensic)	\$80/hr. - \$110/hr.	10 hrs.	MSW licensed
Speech Therapist Expert	\$95/hr. - \$245/hr.	10 hrs.	Licensed professional
Toxicologist	\$165/hr. - \$545/hr.	20 hrs.	
Traffic Engineer Expert	\$110/hr. - \$190/hr.  \$4,320/flat rate	10 hrs.  Flat rate must be approved and is not guaranteed.	
Transcriptionist	\$4.25 per page (rate set by statute)	N/A	Must have completed a training program through a court reporting school, approved by National Court Reporting Association (NCRA)

<b>Service</b>	<b>Guideline Amount</b>	<b>Hourly Guideline</b>	<b>Required Credentials</b>
Transcriptionist/Translation	\$34/hr. - \$74/hr.	20 hrs.	A forensic transcription translation will only be provided if the service is reasonable and necessary.
Use of Force Expert	\$95/hr. - \$325/hr.	30 hrs.	DPSST certification for law enforcement; JD for higher rate
Veterinarian	\$165/hr. - \$270/hr.	10 hrs.	Licensed professional

<b>ROUTINE CASE EXPENSES FOR COUNSEL &amp; INVESTIGATORS (PAE not required)</b>		
Blank CD/DVD, case, and label	\$1.00 each	For media, case, and label
Discovery	Actual cost	Receipt required.
Mileage	Mileage will be paid at the GSA rate at the time of travel	Excludes counsel's trips between office and courthouse unless authorized.
OECI Searches	\$0.25 per minute of usage	When provider has subscription for OECI
Parking	Actual Cost	Trip must qualify for mileage payment. Receipt required if over \$25.00.
Photocopies, in-house, B&W Photocopies, in-house, Color Scanning, In-house	Max. \$0.10 per page Max. \$0.50 per page Max. \$0.05 per page	Also applies to in-coming faxes.
Photocopies & Scanning by Vendor	Actual cost	Receipt required.
Photocopies, State Court/Other Government entities	Actual cost	Certified copy costs also paid if necessary. Receipt required.

ROUTINE CASE EXPENSES FOR COUNSEL & INVESTIGATORS (PAE not required)		
Photograph production, in-house and vendor	<p>In-house: \$0.40 for 3x5 or 4x6 \$1.20 for full page</p> <p>Actual cost if vendor</p>	<p>In-house must be produced on photo quality paper, otherwise in-house color copy rate.</p> <p>Receipt required if produced by vendor.</p>
Postage	First-class mail	No receipt required.
Process Service	\$35/per location	Service may be effectuated by the Sheriff pursuant to ORS 21.300, an investigator, or a process server.
Records	<p>\$300/per record (all case types except murder)</p> <p>\$500/per record (any level of murder)</p>	See Routine Expense policy
Special Delivery	UPS, Fed Ex, USPS Express mail, messenger service	Receipt & explanation required.
Telephone	Actual Cost	International charges, including those for faxes, and charges for collect calls from client at an institution. Receipt required.

TRAVEL EXPENSES			
Airfare	Must be arranged through state contract. Contact information will be on the PAE Approval.		Varies
<b>Lodging</b>	<b>See PAE Policy</b>		<b>GSA rates apply</b>
Meal Allowance: <b>Day Trips</b>	Breakfast: <b>\$16.00</b> [\$14.00] (departure before 6 am) Lunch: <b>\$19.00</b> [\$17.00] (departure before 6 am/ return after 2 pm) Dinner: <b>\$33.00</b> [\$28.00] (return after 8 pm ) <b>(Justification must be provided &amp; distance must be more than 100 miles one way)</b>		Travel times must be reported
Meal Allowance: <b>Overnight (no time provided)</b>	First day: Dinner only: <b>\$33.00</b> [\$28.00] Second & subsequent full days: <b>\$68.00</b> [\$59.00] Last day: Breakfast & Lunch: <b>\$35.00</b> [\$31.00]		No departure or return times provided
Meal Allowance: <b>Overnight (time provided)</b>		Departure time:	Return time:
	Breakfast: <b>\$16.00</b>	Before 6:00 am	After 9:00 am
	Lunch: <b>\$19.00</b>	Before 11:00 am	After 2:00 pm
	Dinner: <b>\$33.00</b>	Before 5:00 pm	After 8:00 pm
Mileage	See PAE & Routine Expense policies.		GSA rates apply
Parking	Receipt required if over \$25.00. Must have qualifying mileage.		Actual cost
Rental Car	Compact vehicle (unless otherwise pre-authorized) plus fuel with submission of original receipts. Insurance costs will not be reimbursed.		Varies



**Date:** December 6, 2024

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

**Cc:** Jessica Kampfe, Executive Director

**From:** Kimberley Freeman, CAP Manager  
Amy Schabert, Senior Policy Analyst

**Re:** Routine Expenses policy

**Background:**

On September 18, 2024, the Commission approved changes to the Routine Expenses policy. Since that time, the Agency has received both internal and external feedback. During the last year, this policy has been before the commission quarterly to review. Going forward, the Agency intends to present revisions once every six months or as changes are needed. The following sections of the policy have been changed:

- Section 1.5 (I) – changed from 180 days to one year.
- Section 1.16 – added exceptions to the minimum billing amount on hourly cases.

**Agency Recommendation:**

Approve Routine Expenses policy changes.

**Fiscal Impact:**

None.

**Agency Proposed Motion:**

Agency recommends the Commission approve the proposed changes listed above for the Routine Expenses Policy effective January 1, 2025, which will supersede any prior memo or policy.



<u>POLICY NAME:</u>	Routine Expenses	<b>Number: 404.050.001</b>
<u>DIVISION:</u>	Administrative Services	<b>Effective Date: 1/1/2025</b>
<u>RESPONSIBLE SECTION:</u>	Accounts Payable	
<u>APPROVED:</u>	Oregon Public Defense Commission	<b>Approval Date: 12/6/2024</b>

**PURPOSE:** Establishes eligibility and criteria for which Routine Expenses will be paid.

**AUTHORITY:** ORS 151.216, 151.225(1)(c), 419A.211, 419B.201, 419B.518, 419C.206

**APPLICABILITY:** This policy applies to all requests for reimbursement of routine expenses submitted to OPDC and supersedes any previous memorandum or version of the policy.

#### **EXPENSES REIMBURSABLE WITHOUT PREAUTHORIZATION**

Reasonable and necessary case related out of pocket expenses will be reimbursed where it is not considered overhead and/or part of the hourly rate of a specific service type.

OPDC will consider out of pocket expenses not shown in policy with a written explanation and any other necessary documentation that show the expense to be reasonable, necessary, and properly payable from public defense funds.

**Contract Counsel should submit billings every 90 days or whenever the out-of-pocket expenses total \$100.00 or more.**

Out of pocket expenses include the following:

##### **1.1 Cleaning Costs for Client Clothing**

Dry-cleaning fees for client clothing following the conclusion of trial, when supported by a receipt.

##### **1.2 Discovery**

The custodian's actual cost of printing electronic discovery, but not more than a reputable private vendor would charge for making copies. In lieu of obtaining printed copies, OPDC will reimburse counsel for flash drives, CD's, or other storage devices up to \$10.00 without a receipt. In addition,



OPDC will pay for one copy for the client. Any additional copies must be preauthorized. OPDC will not pay premiums for expedited copies unless appointed counsel gives a reasonable explanation of why this situation could not have been avoided.

- A. For criminal cases, discovery is material obtained from the District Attorney, Department of Justice, or prosecuting authority.
- B. For a juvenile case, discovery is material obtained from the District Attorney, County Juvenile Department, Department of Justice, Department of Human Services, or any other party to a dependency case.
- C. For post-conviction relief cases, discovery is a copy of trial counsel's file, appellate counsel's file, the District Attorney's file, the court file, and the material obtained from the defendant in the post-conviction case (e.g., the Superintendent of the Department of Corrections).
- D. Discovery materials include audio and video media, photographs and other similar items obtained from the sources described above.

### **1.3 Fax**

Fax transmittals will be reimbursed at the rate of a regular international telephone call. Vendor may request reimbursement at the same rate as for in-house black and white copies for faxes received.

### **1.4 Grand Jury Transcripts**

Grand Jury transcripts will be reimbursed at the rate set by ORS 21.345.

### **1.5 Interpreter Services:**

Counsel must request preauthorization for interpreters only when rates exceed the Schedule of Guideline Amounts amount.

Except as provided in ORS 45.275(7) (Appointment of interpreter for non-English-speaking party, witness, or victim), an interpreter is subject to the provisions of the Oregon Evidence Code relating to qualification as an expert and the administration of an oath or affirmation that the interpreter will make a true and impartial interpretation of the proceedings in an understandable manner using the interpreter's best skills and judgment in accordance with the standards and ethics of the interpreter profession.

Interpreters who are certified by the Office of the State Court Administrator, under ORS 45.291 for out-of-court attorney/client communication, must be used unless none are available. The State Court Administrator establishes categories of certificates based on the nature of the interpreter services to be provided, including categories for interpreters for persons with disabilities and non-English-speaking persons. If no certified interpreter is available, counsel must use a qualified interpreter, as defined in ORS 45.275(8)(c).

If no OJD Certified or Registered Interpreter is available and outside sources are needed, preauthorization is required.

- A. Mileage out of the state of Oregon over 100 miles must be preauthorized.

- B. OPDC will pay a one-hour minimum if the service provided requires less than one hour.
- C. Travel time will be paid on actual times reported. Mileage will be reimbursed on actual miles traveled.
- D. If the interpretation service is provided by telephone or video and the interpreter is not at the same location as counsel when the service is provided, the interpreter should indicate that on the Interpreter Worksheet and fill in the name of counsel for whom the service was provided. Indicating “telephone approval” on the signature line is NOT sufficient.
- E. OPDC will not pay for counsel to use an interpreter to deliver a message to or request information from the client unless counsel or counsel’s staff person participates in the communication.
- F. An interpreter may not bill OPDC more than once for the same period of time.
- G. Actual time of service must be recorded even if an appointment was less than one hour and the interpreter is claiming the fee for one hour of service.
- H. OPDC will pay for actual time worked for services that combine translation and transcription of written communications between the attorney and the client or the court and the client.
- I. Interpreters shall bill for time and expenses on the Interpreter Worksheet or an invoice and shall bill no more than every two weeks and not later than **one year [180 days]** after service date.
- J. When feasible, counsel, or a person designated by counsel, shall certify the interpreter’s time by signing the Interpreter Worksheet or invoice.
- K. Other interpreter services not related to attorney/client communication or court/client communication, such as translation and transcription of recorded interviews must be preauthorized.
- L. If the interpretation is in conjunction with an in-custody polygraph or in-custody evaluation, OPDC will pay a four-hour minimum regardless of time spent interpreting. Actual interpretation time must still be documented. Interpreters must notate on the interpreter worksheet the name of the facility where services took place and identify the type of service, e.g., polygraph, psychological evaluation or drug and alcohol evaluation.

### **1.6 Mileage**

Routine mileage does not include travel between counsel’s office and the courthouse or other location where a hearing or judicial appearance is required unless the appearance or hearing is outside of counsel’s assigned jurisdiction or exceeds 50 miles round trip. Assigned jurisdiction is defined as the county where counsel’s office is, as reflected in counsel’s business registration with the Secretary of State.

Mileage out of the state of Oregon over 100 miles must be preauthorized. Allowable routine mileage is outlined in the sections below:

- A. The departure and destination city are required for mileage reimbursement.
- B. Qualifying case related attorney or attorney staff mileage that is out of county, or in a county that exceeds 50 miles round trip, is routine mileage. This mileage applies specifically to actual location of the travel and not the county assigned to the case.

The General Services Administration (GSA) rates for mileage can be reviewed at [Privately owned vehicle \(POV\) mileage reimbursement rates | GSA](#).

### **1.7 Parking**

Parking costs may be reimbursed, without specific preauthorization, when incurred during case related travel that qualifies for mileage reimbursement or if other travel expenses have been preauthorized and it does not exceed the Schedule of Guideline Amounts. The actual cost of parking, when the travel qualifies for mileage payment, may be reimbursed.

### **1.8 Photocopies and Document Scanning**

Actual costs supported by detailed documentation at rates outlined in the Schedule of Guideline Amounts. Reimbursement for services provided by a third party must be supported by a receipt.

### **1.9 Postage**

The most economical method of shipping must be used. Standard postage and shipping materials will be reimbursed. Expenses for First-class mail, Express mail, or to insure will only be considered when supported by an explanation and is determined to be reasonable by OPDC. Receipt required if the cost to send an individual item exceeds \$25.00.

### **1.10 Process Service:**

Counsel shall use the most economic method available for process service. Service may be effectuated by the Sheriff pursuant to ORS 21.300, an investigator, or a process server.

- A. ORS 21.300(1)(a) provides that no fee shall be charged to the state by the county sheriff for cases in which the party requesting service has court-appointed counsel.
- B. If the investigator for the case, who is paid from the PSA, perfects service, the investigator will be paid the hourly rate for time spent locating and serving or attempting to serve a witness if the number of hours does not exceed the total hours preauthorized.
- C. If a different investigator is used for the sole purpose of providing process service, the investigator will be paid the amount in the schedule for each location where service is made or attempted.

### **1.11 Records**

The cost of an individual medical, school, birth, DMV, and other similar record including records obtained from the Oregon State Bar, 911 Recordings and Emergency Communication Recording Logs that do not exceed the Schedule of Guideline Amounts.

The cost for 911 recordings and Emergency Communication Recording Logs, including film, film developing, photos, audio and video tapes, compact discs, and exhibit materials that do not exceed the Schedule of Guideline Amounts.

#### **1.12 Telephone calls**

Collect calls and international telephone charges to Counsel or a Service Provider from a client in a jail, prison, hospital, or other similar government institution will be reimbursed.

#### **1.13 Witness fees/mileage**

Counsel or the witness shall submit the subpoena which indicates the number of days the witness' attendance was required as well as the total mileage amount unless the mileage was previously approved through Case Support Services. Lay witness fees and mileage expense for attendance will be reimbursed at the rate set by statute.

The following expenses are considered Routine:

#### **1.14 Appellate Transcripts**

Transcription is the process of converting a stenographic or electronically recorded word into a written document. The rate for transcription services of court proceedings is set by ORS 21.345.

When an Oregon circuit court or appellate court has made a determination that a person is eligible for appointed counsel at state expense and/or issued an order for appointment of counsel, in a case of the following case types, OPDC authorizes production of a transcript at state expense for use in an appeal or judicial review of a judgment or order in that case:

- Criminal;
- Juvenile delinquency;
- Juvenile dependency;
- Termination of parental rights;
- Civil commitment;
- Post-conviction relief;
- Habeas corpus;
- Psychiatric Security Review Board; and
- State Board of Parole and Post-Prison Supervision.

OPDC will pay for one original but no copies of a transcript.

#### **1.15 Court Ordered Psychological Examinations**

Costs associated with court-ordered psychiatric or psychological evaluations to determine if a defendant is fit to proceed unless the evaluation was requested by the prosecution [ORS 161.365(7)]. If the evaluation is conducted by a certified evaluator in private practice, OPDC shall pay a reasonable fee including travel time and mileage. If the evaluation is conducted by a certified evaluator employed by the Oregon Health Authority or a community mental health program established under ORS 430.610-670, OPDC shall pay all costs including transportation of the defendant.

### **1.16 Hourly Attorney Billings**

Counsel appointed to a case on an hourly basis shall submit billings monthly provided that the amount is \$130.00 or more. ~~[The amount requirement does not apply to the final billing on the case.]~~

#### **Exceptions to the minimum billing amount on hourly attorney billings:**

- **Final billing on the case.**
- **The client enters into a program or agreement which delays final adjudication.**
- **The client fails to appear, or the court issues a warrant.**
- **The court determines the client is unable to aid and assist.**

Approved by: OPDC  
Prepared by: Policy Division  
Reviewed by: Executive Team

Publish: Internally & Externally



Oregon  
Public  
Defense  
Commission



Oregon Public Defense Commission

# STRATEGIC PLAN

2025-2031

PROPOSED

# WELCOME

The Oregon Public Defense Commission was established to ensure that every individual, regardless of their financial situation, has access to quality legal representation. Our vision is rooted in the belief that justice should be equitable and accessible to all, and guided by the American Bar Association's Ten Principles of a Public Defense Delivery System. In recent years, we have faced significant challenges, including a shortage of public defense attorneys and the need for modernized systems and processes. These challenges have underscored the urgency of our work and the necessity for a comprehensive strategic plan to guide the next six years.

As we embark on a transformative journey this strategic plan is not just a blueprint for the Agency; it is a commitment to the community and a roadmap to enhance the quality of public defense services across Oregon.

This strategic plan outlines our objectives and initiatives aimed at addressing the public defender shortage, improving operational efficiency, and fostering a culture of excellence within the Agency. It serves as a guiding framework for our efforts to expand our workforce, enhance support for our providers, and implement innovative solutions that meet the evolving needs of our clients.

Our vision for the next six years is clear: we aspire to build a public defense system that not only meets the immediate needs of those we serve but also anticipates future challenges. We aim to create an environment of trust, respect, and inclusivity, ensuring that our agency reflects the diverse communities of Oregon.

**Jennifer Nash**  
*Commission Chair*

**Susan Mandiberg**  
*Commission Vice-Chair*

**Adrian Tobin Smith**  
*Commission Member*

**Alton Harvey, Jr.**  
*Commission Member*

**Bob Selander**  
*Commission Member*

**Brook Reinhard**  
*Commission Member*

**Senator Floyd Prozanski**  
*Commission Member*

**Jasmine Wright**  
*Commission Member*

**Jennifer Parrish Taylor**  
*Commission Member*

**Paul Evans**  
*Commission Member*

**Peter Buckley**  
*Commission Member*

**Robert Harris**  
*Commission Member*

**Tom Lininger**  
*Commission Member*

# STRATEGIC FRAMEWORK

## VISION

OPDC is a guardian of the legal rights and interests of public defense clients and a champion for effective public defense services.

## MISSION

Our mission is to continually enhance the statewide public defense system to deliver highly skilled, independent, timely, and client-focused representation to eligible persons.

## VALUES

Our values are the guiding principles that shape the behavior and actions of the Agency, defining our culture and character. These values promote consistency and integrity in how we treat one another, and the communities we serve.

As an organization, we are:

- Client-Centered
- Committed to Excellence
- Effective
- Diverse and inclusive
- Compassionate
- Adaptive



# GOALS AND OBJECTIVES

## GOAL 1: END THE PUBLIC DEFENDER SHORTAGE

Attract, recruit, and retain highly qualified diverse, and dedicated public defenders and non-attorney case support personnel to ensure that every client receives effective and compassionate legal representation—ending the unrepresented crisis.



## GOAL 2: TRANSITION TO THE EXECUTIVE BRANCH

Successfully transfer operations and adapt to the Executive Branch while maintaining our commitment to excellence and client-centered service.



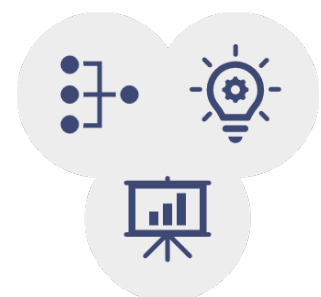
## GOAL 3: IMPROVE PROVIDER RELATIONSHIPS

Strengthen our relationships with our providers by fostering a collaborative environment that promotes open communication, mutual respect, and shared objectives.



## GOAL 4: CULTIVATE OPERATIONAL EXCELLENCE

Streamline our processes, improve efficiency, and foster a culture of continuous improvement by leveraging technology, investing in staff development, and implementing robust performance metrics.



## GOAL 1: END THE PUBLIC DEFENDER SHORTAGE

Attract, recruit, and retain highly qualified, diverse, and dedicated public defenders and non-attorney case support personnel to ensure that every client receives effective and compassionate legal representation—ending the unrepresented crisis.



**Objective A: Implement recommendations outlined in the Six Year Plan to Reduce the Public Defender Deficiency, expanding our workforce and ensuring that public defense service providers have the necessary support to represent clients effectively.**

- Increase the public defense provider base by recruiting both criminal and juvenile defense attorneys:
  - Recruit approximately 80 attorneys per year to reach the total needed 980 full-time attorneys to eliminate the Adult Criminal attorney deficiency by 2031.
  - Recruit approximately 50 attorneys per year to eliminate the Juvenile attorney deficiency by 2031.
- Implement enhanced recruitment strategies like law school-to-public-defense pipelines, loan forgiveness opportunities, and programs to attract lawyers to underserved parts of the state.
- Recruit proportionate case support personnel—such as paralegals, investigators, social workers, case managers, interpreters, and administrative personnel—to help meet caseload demands and strengthen the pipeline of professionals entering public defense service.
- Pursue alternative interventions aimed at reducing the public defender deficit, such use of diversion plans, and advocate for initiatives such as decriminalizing low-level non-violent misdemeanor crimes and repealing certain parts of mandatory minimum sentencing laws.
- Strengthen caseload monitoring to ensure that workload expectations and standards are consistently communicated and maintained for all public defense providers.
  - Over six years, incrementally reduce annual attorney workload hours to achieve the adopted workload standard of 1,578 case-specific hours per year for full-time public defense attorneys.

- Expand the Statewide Public Defender Trial Office.
- Continue to conduct regular economic surveys in alignment with the contract renewal process to assess hourly rates for all contracted individuals providing public defense services.
  - Regularly update hourly rates to ensure that compensation helps support the agency's recruitment and retention strategies.
  - Regularly review payment practices for equity.

**Objective B: As outlined in Senate Bill 337, transition the Public Defense Service Delivery Model and develop the required standards, training, data collection, and oversight.**

- Work with the public defense community, and relevant state agency partners throughout the process to develop, review, and launch each component of the program including performance standards and monitoring, selection criteria, case assignment, mentoring, training, and recognition.
- Provide regular reports on the status of each component of the program to enhance transparency.
- Launch the Assigned Counsel Panel Program, and continuously monitor the program to identify areas for ongoing improvement and its impact on the public defender shortage.
  - Create a process to track opportunities for improvement that are identified through monitoring and develop a process to implement updates on an ongoing basis.
- Conduct a comprehensive review of provider contracts on the established cycle to ensure that the defined terms, compensation, and standards contribute to effective service delivery and support recruitment and retention efforts.
  - Perform robust provider engagement throughout the process to improve outcomes.

**Objective C: Collaborate with regional public defense office personnel to proactively identify areas across the state where there is a current or potential future shortage of public defenders and develop a strategy to address needs.**

- Conduct a comprehensive analysis of public defender distribution across the state, including retirement projections.
- Conduct needs assessments in underserved areas to identify specific challenges and resource gaps.
- Work with the provider advisory committee to develop recommendations on how to best manage shortages regionally.

- Develop targeted recruitment campaigns to attract new public defenders to areas with shortages.

**Objective D: Build partnerships with community groups and state agencies involved in wraparound social services to strengthen the network of resources available to clients.**

- Develop a list of primary partners—including community groups and state agencies—that commonly provide wraparound services that are used to support clients.
- Assign Agency resources to develop relationships with key community groups and state agencies aimed at creating opportunities for collaboration.
- Identify partnership goals and share resources in collaboration with these primary partners.

**Goal #1 Key Performance Indicators**

- Public defender deficiency ratio
- Ratio of case support personnel (e.g., paralegals, investigators) to public defense attorneys
- Workload ratios of public defense providers compared to established standards
- Regional needs assessment report including initiatives to address shortages
- Biennial hourly rate economic survey
- Review of caseload standards in 2028

## GOAL 2: TRANSITION TO THE EXECUTIVE BRANCH

Successfully transfer operations and adapt to the Executive Branch while maintaining our commitment to excellence and client-centered service.



**Objective A: Execute the activities outlined in the Executive Transition Workplan, carrying forward existing processes that are effective and taking advantage of improvement opportunities.**

- Facilitate implementation of the Executive Transition Workplan by clearly assigning ownership over activities and outlining individuals who should be included in development, review, approval, and launch.
- Manage deadlines for each activity in the Executive Transition Workplan to ensure timely execution.
- Continue to engage state partners throughout implementation including the Department of Administrative Services, Department of Justice, State Archives, and others to review expectations and ensure that the intended outcomes of each area of work are consistently understood and met.

**Objective B: Monitor the transition to adapt to changes as they occur and report on plan progress.**

- Assess resource allocation on a regular basis to support ongoing transition efforts, including budget and personnel adjustments.
- Regularly update planning documents with the status, timeline, people, and other resources needed to transition to the Executive Branch.
- Communicate Transition Plan changes to impacted parties, assess the impact of those changes on impacted parties' workloads, and then adjust accordingly.

**Objective C: Regularly engage state partners including the Department of Administrative Services and others to address future operational needs.**

- Establish regular meetings with partners to discuss current and future needs and opportunities for collaboration.
- Provide relevant data, reports, and insights on operational performance and future needs to inform discussions and decision-making.

- Seek input from partners on current operations and potential improvements to ensure their perspectives are considered.

**Objective D: Develop supportive policies, procedures, and guidelines to ensure the ongoing independence of the public defense function.**

- Review existing executive policies and identify improvements needed to ensure ongoing independence.
- Develop or update policies as identified to ensure that public defense providers responsible for direct representation have the independence to do so ethically.
- Review risk coverage and update and write policies to align with the Executive branch requirements.

**Goal #2 Key Performance Indicator**

- Progress reporting on completed Transition Plan activities

## GOAL 3: IMPROVE PROVIDER RELATIONSHIPS

Strengthen our relationships with our providers by fostering a collaborative environment that promotes open communication, mutual respect, and shared objectives.



**Objective A: Develop a communication strategy to share information with providers and solicit their feedback.**

- Engage providers to gather feedback on current communication practices identifying what is working well, opportunities for improvement, and recommendations for new or alternative practices.
- Update communication strategies based on feedback.
- Conduct regular provider surveys and/or focus groups to promote engagement and solicit input on important topics.
  - Create dashboards to communicate engagement results, trends, and important data.

**Objective B: Develop an effective system to prioritize and address issues raised by providers.**

- Establish clear channels for providers to report issues and concerns.
- Develop clear criteria for prioritizing issues based on urgency, impact on service delivery, legal implications, and the number of providers affected.
- Implement a tracking system for reported issues.
- Share outcomes of addressed issues with providers to demonstrate the Agency's commitment to resolving concerns.

**Objective C: Develop a meaningful process to recognize exceptional performance.**

- Establish clear and specific criteria for what is considered exceptional performance within the profession, considering both attorneys and non-attorneys.
  - Involve contractors, other awarding entities, and employees, among others, in discussions to gather input on recognition methods and criteria.
- Create a structured program, initiative, or partnership (e.g., awards, public acknowledgments) to celebrate exceptional performance.

- Consider the evaluation, selection, and award processes; needed personnel; and needed technology to effectively implement an awards program.
- Clearly communicate the recognition process, criteria, and programs to ensure transparency and understanding.

### Goal #3 Key Performance Indicators

- Percentage change in providers participating in surveys or focus groups
- Open rate or engagement rate for digital communication
- Issue tracking metrics
- Recognition program established



## GOAL 4: CULTIVATE OPERATIONAL EXCELLENCE

Streamline our processes, improve efficiency, and foster a culture of continuous improvement by leveraging technology, investing in staff development, and implementing robust performance metrics.



**Objective A: Initiate activities focused on building a strong workplace culture that promotes trust, respect, and employee well-being.**

- Engage employees in focus groups to assess current workplace culture, define the criteria of what constitutes good workplace culture, and understand the root cause of existing gaps.
- Develop a plan including targeted initiatives and success metrics to evaluate improvements to workplace culture.
- Provide training for leaders and managers on effective communication, conflict resolution, and fostering a positive work environment.
- Implement employee recognition programs to celebrate achievements and milestones.
- Create opportunities for peer-to-peer recognition to foster a sense of community and appreciation.
- Ensure all onboarded staff are introduced to the Agency's values and workplace behavior expectations.
- Regularly evaluate the effectiveness of culture improvement initiatives through follow-up surveys and feedback sessions, making adjustments as necessary.

**Objective B: Review and update internal communication processes (including the method, frequency, audience, and technology) to improve transparency and keep people informed of important work or changes.**

- Gather feedback from staff on the effectiveness of existing internal communication practices including technology, frequency, messaging, and means to identify gaps and areas for improvement.
- Create a communication strategy that outlines goals, audiences, key messages, communication channels, and frequency of updates.

- Explore and implement modern communication tools that facilitate efficient information sharing.
- Regularly assess the effectiveness of communication processes.

**Objective C: Implement a comprehensive staff development program that includes training and skill enhancement to foster a culture of excellence.**

- Evaluate the effectiveness of the current employee development programs, policies, procedures, and practices considering the impacts of transitioning to the Executive Branch. Determine what is working well and where improvements are needed.
- Establish clear objectives for an updated staff development program that aligns with organizational goals and employee career aspirations.
  - Develop a structured curriculum that includes a variety of training methods (e.g., workshops, online courses, mentorship) tailored to different learning styles.
  - Create a training calendar that outlines when and where training sessions will take place, ensuring accessibility for all staff.
- Install the needed resources to implement needed updates to the employee development framework.
  - Offer follow-up resources, such as coaching or additional materials, to reinforce learning and encourage skill application in the workplace.
- Establish metrics to assess the impact of the training on employee performance and satisfaction, gathering feedback for continuous improvement.

**Objective D: Develop and operationalize an Agency-specific Diversity, Equity, and Inclusion (DEI) plan incorporating all the strategies of the statewide DEI Action Plan complete with goals and timelines.**

- Identify champions and early advocates within the Agency to lead planning.
- Engage Agency staff, providers, and clients to identify DEI goals for the Agency.
- Develop a data-informed 3- to 5-year racial equity plan and share the plan with the state's Office of Cultural Exchange.
- Set a realistic timeline for completing the plan, including milestones for expected outcomes.

**Objective E: Complete the objectives outlined in the Remediation Plan addressing necessary updates to the Agency’s policies, procedures, technology, and staffing strategy.**

- Develop policies and procedures for all new initiatives. Ensure these are aligned with the updates to policies and procedures as part of the Executive Branch transition.
- Evaluate and modernize systems and processes related to case management, timekeeping, and billing through the Financial Case Management System (FCMS) project.
- Review positions and ensure they align with classification and compensation standards.
- Review, develop, and update the employee onboarding process.
- Execute an Organizational Staffing and Structure Assessment.
  - Update organization charts.
- Develop a process to ensure job descriptions are up to date.

**Objective F: Improve the Compliance, Audit, and Performance (CAP) program to help strengthen the Agency’s program management, performance, and oversight.**

- Develop and finalize an Audit and Accountability plan.
- Develop and finalize program design, including roles and responsibilities, organizational charts, and goals.
- Identify and implement performance measures to monitor the success of the CAP program.

**Goal #4 Key Performance Indicators**

- Percent FCMS implementation complete
- Percent policies and procedures updated
- DEI metrics
- Workplace culture assessment
- Percent participation in employee training and development programs

# ACKNOWLEDGMENTS

Thank you to all the people who dedicated their time and insights during the development of this strategic plan.

**OPDC Commission**

**OPDC Management and Staff**



Oregon  
Public  
Defense  
Commission

Oregon Public Defense Commission

# OPERATIONS REPORT

2024

# 2024 OPERATIONS REPORT

The purpose of the operations report is to provide additional insight into the significant amount of work that takes place to support the agency's major initiatives—highlighting key accomplishments that improve our infrastructure, meet statutory mandates, and implement innovative strategies aimed at strengthening public defense service delivery.

For the last five years, the Oregon Public Defense Commission (OPDC, agency) has been in a critical period of growth and transformation. Looking ahead to the next six years, the agency will continue to manage major initiatives to address historical deficiencies, comply with legislative mandates, and improve the provision of public defense services.

## AGENCY BY THE NUMBERS



## 2024 MAJOR HIGHLIGHTS

- Q1  
2024**
- Newly appointed Commission takes effect.
  - The agency formally changes its name from Oregon Public Defense Services to Oregon Public Defense Commission.
  - Northwest Regional Trial Division office opens.
  - Southern Regional Trial Division office opens.

---

<sup>1</sup> As of November 11, 2024

<sup>2</sup> As of November 20, 2024

<sup>3</sup> As of the October 15, 2024 update released by the Office of Economic Analysis

<sup>4</sup> Last reported in the November 2024 Comprehensive Public Defense Report.

<b>Q2 2024</b>	<ul style="list-style-type: none"> <li>• Commission adopts National Public Defense Workload Standards along with an annual case hours standard of 1,578 hours.</li> <li>• Central Valley Regional Trial office opens.</li> <li>• Completion of the Hourly Rate Economic Survey.</li> <li>• Inaugural case forecast released by the Office of Economic Analysis.</li> </ul>
<b>Q3 2024</b>	<ul style="list-style-type: none"> <li>• Hourly appointment process was updated and implemented to streamline the system for hourly appointments and improve the agency's response to the unrepresented crisis.</li> <li>• Launch of the Service Delivery Transition, to implement an appointed counsel program by June 2027.</li> <li>• Adoption of the revitalized CAP program framework.</li> </ul>
<b>Q4 2024</b>	<ul style="list-style-type: none"> <li>• Adoption of the Six-Year Plan to reduce the Public Defender Deficiency.</li> <li>• Release of the request for proposals for a Financial Case Management system to modernize the agency's data and information management.</li> <li>• Updated case forecast released by the Office of Economic Analysis.</li> <li>• Proposed adoption of the agency's first-ever multi-year strategic plan.</li> </ul>

## FUTURE OUTLOOK

**2025 will continue to be a season of major transition for the agency.**

1. **Executive Branch Transition:** As of January 1, 2025, the agency will have transitioned to the Executive Branch. While several core requirements of the transition plan will be completed by the target date, there will be ongoing work to fully implement updates to policies, procedures, and processes. As implementation extends into 2025, it's anticipated that active monitoring and ongoing adjustments will need to be made to fully integrate systems and processes.
2. **Service Delivery Transition:** Another major area of work with the launch of the Appointed Counsel program. This will fundamentally change the service delivery model of the agency with impacts on nearly every operational department.
3. **Adoption of the Financial Case Management System:** Selection, set-up, and adoption of the new financial case management system will also have far-reaching impacts on agency and provider personnel. These types of transitions

are often major multi-year efforts that will require significant communication, outreach, training, and change management to ensure that the process is as successful as possible.

It's worthwhile to note that state agencies typically manage one of these transitions at any given time, and the agency is working towards delivering on all three in an 18-month period.

### **Addressing the Public Defender Shortage and Related Unrepresented Crisis is a top priority.**

We asked, and the community made their priority clear: We must work toward ending the public defender deficiency and the unrepresented crisis.

The major initiatives for this work are outlined in the agency's strategic plan, and related Six-year Plan to Reduce the Public Defender deficiency, including:

- Recruitment of 79 attorneys in 2025, along with case-support personnel to strengthen the public defense workforce and contribute to improved service delivery.
- Launch of the appointed counsel program
- Build the attorney roster by judicial district to proactively identify and develop plans to mitigate shortages
- Supporting reasonable workloads by managing toward the adopted 1,578 annual hour caseload standard, and NPDWS workload standards.

### **Workplace culture transformation remains a priority for the agency.**

The volume and pace of change, persistent uncertainty, and the ongoing unrepresented crisis have placed a significant strain on agency staff. The agency's ability to function rests solely on its workforce, and we must act to build a strong workplace culture that promotes trust, respect, and well-being. We understand this work will never stop, but it has also often been deprioritized in the face of external demands. It's our focus in 2025 to take intentional steps to improve communication, cultivate well-being, manage workloads, and make improvements to the systems and processes that support our work.



# AGENCY EVOLUTION

## *How has the agency changed?*

Amidst leadership transitions, operational changes, and growing concern over unmet demands, it's difficult to recall all the seemingly incremental shifts that have culminated in the agency we are today. From what was historically considered a pass-through agency, to a full-service agency is a noteworthy evolution.

## 2019

- OPDS operated with a \$342 million budget and 79 staff members, including 58 in appellate services and 21 in business services.
- Oregon became the seventh state to undergo a workload assessment of its public defenders conducted by the American Bar Association Standing Committee on Legal Aid and Indigent Defense. This evaluation, documented in *The Oregon Project: An Analysis of the Oregon Public Defense System and Attorney Workload Standards*, revealed that public defenders in the state handle more than three times the number of cases they can ethically manage.
- The Sixth Amendment Center released *The Right to Counsel in Oregon – Evaluation of Trial Level Public Defense Representation Provided Through The Office of Public Defense Services*, highlighting two major findings:
  - Oregon's public defense system, though it collects substantial data, suffers from inadequate oversight and financial accountability, which can impede the delivery of effective legal representation.
  - The state's reliance on a fixed-fee contract system creates a conflict of interest for appointed attorneys, forcing them to balance their financial stability against their client's due process rights—a practice prohibited by national public defense standards.
- The Commission directed OPDS staff to move away from the flat fee case credit contracting model and toward one centered around attorneys doing work pursuant to caseload standards.

## 2020

- The COVID-19 pandemic brought significant challenges to the Oregon Public Defense System, which operated with 81 staff members.
- The Public Defense Services Commission (PDSC) received \$586,071 in Coronavirus Relief Fund (CRF) support, with 79% allocated to address COVID-related habeas cases, which surged by 545%, from 51 in 2019 to 355 in 2020.

- The Emergency Board allocated \$3.8 million in April 2020 to address workload increases, IT services, and interpreter and investigator rate increases.
- In July 2020, the Office of Public Defense Services (OPDS) introduced the Parent-Child Representation Program in Multnomah County, offering interdisciplinary legal representation to children and families involved in dependency and delinquency proceedings.
- The agency abolished the fixed-fee case-credit contracting model and started implementing the new FTE/Caseload model.

## 2021

- OPDS operated with a \$339 million budget. Of this, \$100 million was held back from the budget and placed in a special purpose appropriation for future distribution to the Emergency Board. This was done in response to a high degree of uncertainty related to HB 5030 A procurement costs.
- Staff expanded to 108, including 58 in appellate services and 50 in business services.
- Advanced the implementation of the FTE/Caseload contract model and set caseload standards at 115% of the 1973 National Advisory Commission (NAC) guidelines, equating to 400 misdemeanors or 150 felonies per year.
- House Bill 2003 (2021) expanded the OPDC and mandated the development of new contracting models to address caseloads and workloads.
- House Bill 5030 (2021) authorized the creation of a Compliance, Audit, and Performance (CAP) Division to enhance oversight and training.

## 2022

- In June 2022, the Emergency Board released the \$100 million special purpose appropriation which was held back in 2021, with a proportional amount of \$70,250,989 going to the Trial Criminal Division.
- OPDS executed over 100 new contracts with various providers, bringing its total contracted FTE count to 590.31 (this includes attorneys providing criminal, juvenile, and parent-child representation cases). These contracts included notable improvements, such as:
  - **Greater Transparency and Uniformity:** The new contracts aimed for clearer and more consistent terms across providers.
  - **Reduced Caseload Numbers:** Acknowledging workload concerns, the contracts included measures to decrease attorney caseloads.
  - **Salary Reimbursement Scale:** A new salary reimbursement scale was introduced, tied to attorney qualifications for specific case types. This scale ranged from

\$195,850 for entry-level attorneys to \$226,450 for attorneys qualified to handle murder cases.

- The need to attract and retain skilled public defenders remained a significant concern, prompting initiatives like the student loan repayment program.

## 2023 TO TODAY

- OPDC operates with a biennial budget of \$614 million and 172 FTE, including 58 in the appellate division, 46 in the trial division, and 68 in business services.
  - Additional administrative staff was recruited to support the agency on data, policy, budget, and procurement.
  - In 2023 OPDC's total contracted attorney base grows to 645.32 FTE.
  - Senate Bill 337 was passed, requiring significant changes to the service delivery model.
- OPDC operates three new statewide public defender offices in Portland, Medford, and Salem, launching a new trial division to expand operational capacity.
- OPDC administers Maximum Allowable Caseload (MAC) contracts with robust administrative support, including:
  - Four reimbursement rates.
  - Vacancy funding and amendments.
  - Extraordinary credit evaluation.
  - Hourly cases in addition to MAC cases.
- Efforts to implement SB 337 are underway, including developing qualification, performance, and training standards, as well as caseload/workload standards, core staff ratios, and a compensation formula to transition the public defense workforce.

# OPERATIONS DEPARTMENT REPORT

## BUDGET & FINANCE

### Budget

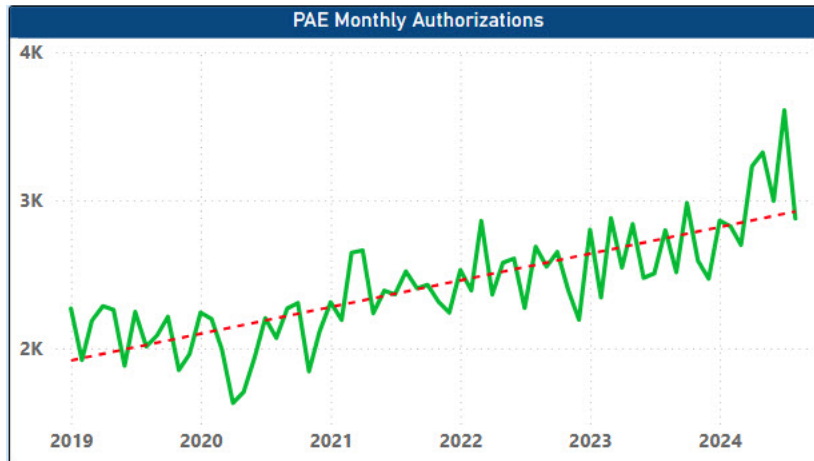
- Added one rotational Senior Research Analyst with expertise in data and research analysis to assist with creating dashboards, and financial models and to be the point and agency liaison for the official Public Defense forecast that has been successfully published twice with DAS.
- Successfully submitted an agency request budget following DAS processes with direction, collaboration, and approval of the full commission.
- Worked with the commission to create an understandable and useful monthly budget presentation.

### Finance

- Hired one senior accountant to focus on the transition to the Executive Branch and the development of the FCMS.
- Hired one mid-level accountant to assume the role of lead accountant for daily operations.
- Hired one entry-level accountant to focus on agency bills and support accounts payable as needed.

### Preauthorized Expense/Court Mandated Expense

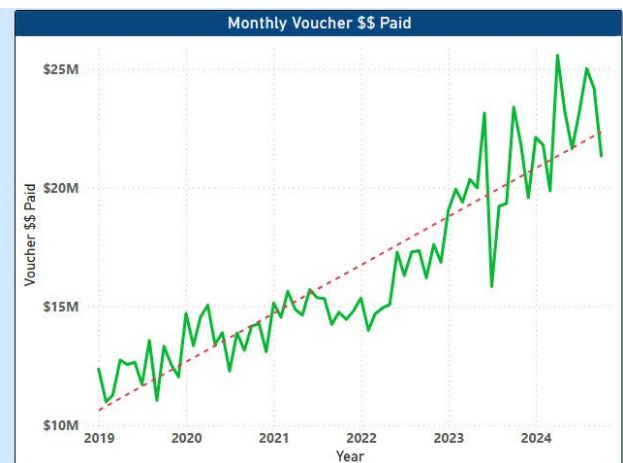
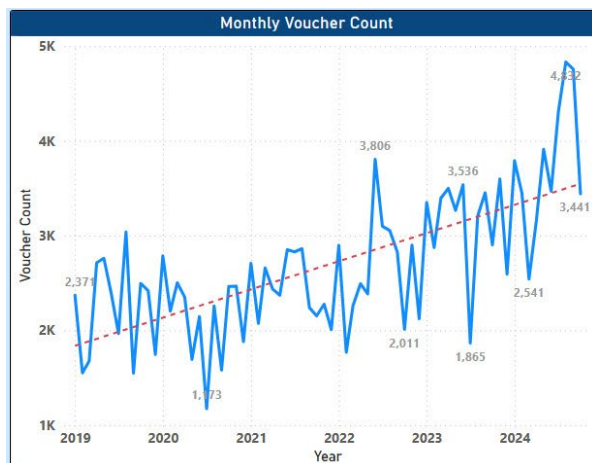
- Hired a manager 3 to manage this overlooked and highly critical area of the agency.
- Eliminated a two-month backlog on pending work requests to achieve a 5-day or less standard turnaround time, including adding additional staff to the unit due to the increased workload.
- Established and rewrote several new Commission-approved policies and procedures that have served to provide more efficient and effective customer service to vendors and providers to allow for better service to clients.
- Wrote and established a new Standard Guideline Amount tool, creating standard rates for vendors, clearing up many discrepancies, and allowing uniformity and equity among vendors and providers.



### Accounts Payable

*In less than 30 days, eliminated a backlog of payments to achieve the under-30-day payment mandate established by the Commission.*

- Hired three additional limited-duration staff to meet the increased workload attributed to the policy changes that were implemented by the commission so that providers can bill with more frequency.
- Successfully mapped all business processes to get the unit in line with the FCMS timelines.
- Currently managing a workload that has doubled in less than one year.



### Procurement

- Established four new positions to develop a procurement unit.
- Hired one extensively experienced senior procurement officer to serve as the point for the FCMS and to develop the procurement unit, leading the transition to the Executive Branch. This position will also be responsible for mid and high-level

procurements including all the vendor/provider contracts (hourly panel and contract entities).

- Established a recruitment to hire a Procurement Manager to lead the procurement unit, act as the Chief Procurement Officer, and lead the agency procurement process including the development of a new standard contract, and aid the agency as it develops and transitions to a new delivery model.
- Planning to add two procurement specialists to handle all agency procurement, including but not limited to Oregon Buys, SPOTS, and minor procurements.
- Published the RFP for FCMS.

## DATA AND POLICY

### Data Team

The data team was established approximately 5 years ago with one person. Over the past 2 ½ years we have added 3 more staff to the team. The data team consists of:

- 3 Research Analysts 4 (RA 4), one is currently on a job rotation.
- 1 Operations and Policy Analyst 2 (OPA 2).

The Data Team, in collaboration with the IT Department, is focused on strengthening data management, reporting, and analysis, which supports the OPDC's goal to improve provider relationships and cultivate operational excellence.

- **Developed a Contracts database:** For the first time, the agency can track historical attorney records, providing a comprehensive view of attorney contracts and FTE information over time. This data will be valuable for analyzing trends, identifying areas for improvement, and supporting data-driven decision-making.
- **Implemented a Nintex form for unrepresented persons and streamlined the hourly agreement processing:** These process improvements aim to increase efficiency and accuracy in managing data related to unrepresented persons and hourly agreements, supporting the agency's goal of providing timely and effective legal services.
- **Provided SQL access to relevant personnel:** Granting access to SQL databases empowers staff with the tools and information they need to conduct more comprehensive analysis and reporting, contributing to a more data-driven culture.
- **Initiated office hours focused on caseload reporting:** These sessions provided training and support to our providers on caseload reporting errors received by the agency and how to improve reporting accuracy. This also encouraged providers to reach out for one-on-one assistance with specific caseload reporting concerns. The

sharing of caseload information with internal staff promoted a better understanding of caseload trends and informed resource allocation decisions.

- **Added a Quality Assurance/Quality Control position:** This position is responsible for reviewing data and data entry processes to improve data integrity, ensuring the reliability and accuracy of the agency's data, which is crucial for effective decision-making and reporting.
- **Increased collaboration across multiple teams:** The data team's efforts have led to enhanced collaboration with other departments, promoting a more integrated approach to data management and analysis.

## Policy Team

The policy team was also established approximately 5 years ago, with a staff of 1. In 2022 the team increased to 2 staff through job rotations. This included 1 Operations and Policy Analyst (OPA) 4 and 1 Operations and Policy Analyst (OPA) 2. From the 21-23 Legislative session the policy team was approved to add an additional Operations and Policy Analyst (OPA) 4 and Operations and Policy Analyst (OPA) 3 – specifically to establish the agencies record retention policies and processes and to create and implement Oregon Administrative Rules (OAR). Today the policy team consists of 2 OPA 4's. 1 OPA 4 joined the agency in April 2024, and an OPA 3 joined the agency in September 2024. There is one OPA 2 vacancy, and one of the OPA 4 positions is on a job rotation.

The agency needed to establish policy templates, along with process documentation templates. The agency has some policies, many policies need updating, and the policies and process documentation need to be organized into a working document to track the workload of the needed policies and processes.

### **This process has been completed as of November 2024.**

As policies are created and approved, the process is also created to ensure implementation of the policies, this was missing. Historically, the agency would create a policy but no process. There is a central location of approved agency policies for internal reference and external policies are found on the agency webpage under policies. As policies and processes are developed the policy team works with subject matter experts (SME) to ensure the policy and process are documented correctly. Today, each division and section has a policy number associated with them, that works in accordance with the Orbits (budget) and the OARs. We have established our shell structure for our Oregon Administrative Rules (OAR), with the list of divisions that will require OARs. The policy team is working on naming conventions for file storage and will begin to create a record retention schedule.

## ACCOMPLISHMENTS WITHIN THE POLICY TEAM

- Delegation of Authority Policy – Signing authority for directors and managers for budget and responsibilities.
- Public Service Loan Forgiveness (PSLF) Policy and Process – Process for OPDC to review and certify that a Contractor meets the eligibility criteria for student loan forgiveness.
- PAE, Routine Expenses, Scheduled Guideline Amounts – Approved policies with quarterly updates to the Commission for a continuation of policy and process improvement. This was completed quarterly during 2024, with commission presentation and approval.
- Restructuring the organization of policies and procedures for filing and tracking. – Organization in SharePoint, QA of policies and procedures, developing resources and tools for efficiency.
- Created internal process for Commission materials.
  - Commission memo template
  - PowerPoint template
  - Expectations on presentations to commission
- Held office hours to communicate updates to policies related to:
  - Pre-authorized Expenses, Routine Expenses, and Schedule of Guidelines
    - Review of new and updated policies
  - Key Performance Measures (KPM)
    - Shared the Agencies 5 KPMs
    - Customer Service Survey and Continued Learning Education Survey
  - Public Student Loan Forgiveness (PSLF)
- Updated the Public Record Request Policy
  - Updated to reflect ORS requirements, fees charged, fee waivers
  - Created a new public record request tracker
  - Created communication templates to ensure compliance with statutory requirements

## HUMAN RESOURCES

September 1, 2023, marked the commencement of significant transformations within the Human Resources Section of OPDC. For several years, this team has faced



challenges in operating efficiently or effectively, with an average of only two staff members (including the manager) at any given time. Processes lacked documentation, policies were outdated, roles were ambiguous, and the agency's trust in its Human Resources department was severely diminished. Following a two-month vacancy, Laura Sanchez assumed the role of Human Resources Director on September 1, 2023.

With this leadership transition, a new vision was established for the role of Human Resources at OPDC. Our objective is to cultivate a team that is service-oriented, strategic, and a genuine partner across the agency. In this spirit, we reflect on the accomplishments of the past year and look forward to the opportunities that lie ahead.

## Classification/Compensation

- Class Review Process
  - Significant improvements were made in the documentation and review of classification structures to ensure alignment with organizational objectives and industry standards.
- Pay Analysis Process
  - Adopted a formal and consistent pay analysis process in accordance with those employed by the Executive Branch. We continue to monitor this process and are actively working on implementing modifications for our attorney classes to maintain our competitiveness as an employer.
- New Classifications
  - Introduced two new job classifications to address the growing demands within the Trial Division. We will continue to advocate for the addition of other new classifications to effectively manage the specialized nature of the agency's work.
- Agency Class/Comp Study
  - We are currently engaged in a conversation with HR Answers to lead an agency-wide classification and compensation study. The agency currently lacks the documentation pertaining to the history of either system. As we prepare to transition to the Executive Branch, it will be imperative that these fundamental systems undergo a thorough review and update as necessary.
- Allowance Management
  - In response to the substantial increase in client-facing work undertaken by the Trial Division, we promptly approved bilingual allowances for several of our legal support positions. Within the next few months, we will implement an enhanced

management process for these and other allowances to ensure equitable distribution.

## Recruitment

- Trial Division and IT ramp-up
  - With the addition of a dedicated Recruiter for the agency, we implemented recruitment strategies that facilitated substantial growth in the Trial Division and IT, which were pivotal for the agency's expansion. This included the establishment of three Trial Offices and a near 100% increase in IT, with a specific focus on the F/CMS project team.
- Process and Tools
  - The team streamlined recruitment processes by implementing novel procedures and tools. These include customized timelines, scoring matrices, enhanced interview notes and rating documents, an interview question bank, updated job posting and announcement templates, and more. Furthermore, we enhanced our LinkedIn strategy to attract qualified candidates more effectively.

## Protected Leave

- Frances Online and Leave Tracker
  - Enhanced the processing of protected leave through the adoption of the Frances Online system for Paid Leave Oregon. Additionally, we developed comprehensive leave-tracking tools to enhance compliance and documentation.

## Position Management

- Internal Communications and Org. Charts
  - Facilitated improved position management through enhanced communication with Budget, leadership, and management. HR led the creation of both the budget and operational organizational charts. Additionally, we were able to collaboratively develop the creation of an internal communications position for the agency.
- Position Descriptions
  - Currently, the Human Resources department is engaged in a comprehensive organization of all position descriptions within the agency. The ultimate objective of this endeavor is to generate updated documents that will enhance transparency and accountability for both managers and staff.
- Budget Process

- We have closely collaborated with the Budget team to refine the budget process, ensuring that responsibilities are distributed more equitably. While there are still many tasks to complete as we move forward, this crucial partnership will yield significant benefits for the agency.

## Compliance

- Affirmative Action Plan
  - Updated and implemented an Affirmative Action Plan to align with legal requirements and establish the foundation for fostering a diverse and inclusive workplace moving forward.
- E-Verify
  - Adopted the e-Verify system to comply with legal requirements for completing I-9 documents while simultaneously accommodating the modern flexibility and geographic diversity of our hybrid workforce.
- Diversity, Equity, & Inclusion Plan
  - HR is leading the efforts to create the agency's first DEI plan. While one of the Governor's expectations, this document builds upon the Affirmative Action Plan with more targeted work aimed at achieving tangible DEI goals.
- Policy Revisions
  - Agency-specific policies continue to be updated to reflect current laws, regulations, and organizational goals.

## Employee/Labor Relations

- Labor Management Committee
  - Established a Labor Management Committee to foster better labor relations and workplace harmony.
- Grievance Management
  - Expertly managed and responded to grievances as they arose.
- Manager Training
  - During the Managers' Meeting session, we introduced several training opportunities to address a diverse range of topics, including Workday and Recruitment. We remain committed to developing and implementing training programs that align with the Governor's expectations and provide our management team with ongoing support and professional development.

- Bargaining
  - The shop has collaborated closely with our designated bargaining representative to assume a more proactive and direct role in the bargaining process for the first time in several years.

## Strategic Planning

- Team Growth and HR Strategic Projects
  - Expanded the Human Resources team to a substantially enhanced capacity. This expansion enabled the team to undertake strategic projects that aimed to further enhance the role of Human Resources within the organization.
- Monthly Reports and Remediations Participation:
  - Monthly HR status reports are now provided to the executive team. Additionally, we actively participate in meetings with Moss Adams to ensure that our actions align with the agency's remediation plan and strategic planning initiatives.

## Data Management

- Workday Organization & Clean-Up
  - Conducted a thorough clean-up and reorganization of our HR data systems and in Workday for better data integrity and accessibility.
- Trackers
  - Developed and implemented tracking mechanisms to monitor and analyze various HR metrics and processes including recruitment, class reviews, protected leave, and labor and employee relations.

## Relationship Building & Communications

- Managers' Meetings
  - Established a standing Managers' Meeting to facilitate the exchange of information and knowledge among frontline managers within the agency. This platform also serves as a venue for training sessions and fosters an internal peer support network.
- New Teams Channels
  - Established new channels for disseminating employee announcements, both incoming and outgoing, to enhance communication and coordination among various departments, including HR, IT, Facilities, Accounting, and Budget.

Furthermore, a dedicated channel was created exclusively for managers to share and access resources, complementing the Managers' Meeting space.

- New Employee Emails
  - Started sending monthly emails announcing new staff which includes a brief bio to introduce them to the agency at large.
- HR SharePoint Site
  - We are currently working on centralizing HR resources for the agency on a SharePoint site.

## Employee Experience

- New Employee Orientation
  - Currently leading a project that will revamp the new employee orientation process to ensure a positive and engaging experience from day one.
- Employee Engagement
  - Gearing up to launch what will become an annual employee engagement survey through our partnership with Gallup. These results will be used to create targeted and meaningful approaches to improving the quality of life for agency employees.
- Performance, Accountability, and Feedback Check-Ins
  - We continue to collaborate with managers to establish processes and tools for quarterly performance and accountability check-ins, which will facilitate continuous improvement and employee development.
- Canopy EAP
  - We are pleased to announce the launch of a series of virtual sessions in collaboration with Canopy, the provider of our employee assistance program. These sessions are designed to provide comprehensive support for employee well-being.

These achievements underscore our commitment to strengthening our Human Resources capabilities, improving service delivery, and fostering a positive workplace culture. We continue to strive for excellence as we embark on new projects and initiatives in the future.

## IT

The work of the IT department on OPDC's myriad transformations cannot be understated. The IT department is responsible for the highest levels of data management and security working tirelessly on several fronts including:

- Working with the Oregon Judicial Department, and the Department of Administrative Services to move OPDC's entire technology environment including software, hardware, information storage and management, access, and cybersecurity as well as completely update IT policies and procedures.
- Leading the complete technology setup for OPDC's three statewide offices in Portland, Medford, and Salem.
- Revitalizing the FCMS project within an impressive timeframe of less than 8 months, ensuring timely progress and alignment with organizational goals including:
  - Recruiting a highly experienced Network Engineer to enhance technical capabilities and support the infrastructure needs of the FCMS.
  - Developing and publishing a comprehensive Request for Proposal (RFP), laying the groundwork for selecting qualified vendors and partners for the project.
  - Organizing and conducting an open house event to engage stakeholders, gather feedback, and foster transparency throughout the project development process.
  - Assembling a skilled project team, including a Project Manager and Business Analysts, to drive the project forward with expertise and strategic insight.
  - Hiring specialized contract procurement staff to effectively write and manage the RFP process, ensuring compliance and optimal vendor selection.
  - Mapping all current state business processes, providing a clear understanding of existing workflows, and identifying areas for improvement within the FCMS framework.

In addition to these major initiatives, the IT team works to maintain the agency's website, facilitate virtual commission meetings, and provide ongoing technical support to staff.

As the agency's technology environment has expanded to meet demands and become more sophisticated additional staff have been onboarded to manage the full scope of the department's work including:

- An experienced Chief Information Officer to provide strategic leadership and direction for the FCMS project.

- Project managers to effectively oversee and manage the transition to the Executive Branch, ensuring a smooth and efficient process.

## FACILITIES

***Opened three statewide public defender offices in Portland, Medford, and Salem.***

- Hired an experienced facilities manager.
- Remodeled the Entire commercial street office, to allow for expansion of staff to meet legislative growth requirements in SB 337 (2023).

# SERVICE DELIVERY DEPARTMENT REPORT

Presented in the November Commission, the [\*2024 Comprehensive Public Defense Report\*](#) (pages 80-101) provides an overview of the major service delivery areas.

The Department of Administrative Services Office of Economic Analysis (OEA) released its first forecast on April 15, 2024, which was updated on October 15, 2024. The forecast will be a major tool for the agency to proactively manage public defense service delivery.

The forecast is comprised of 13 case types. Of note, the forecast is currently projecting a 22.4% increase in criminal cases for the 2025-2027 biennium, which is largely attributable to increases in misdemeanor (34.4%) and probation violation (21%) cases, but also includes a projected increase in felony (8.4%) cases.

## TRIAL SUPPORT AND DEVELOPMENT SERVICES

The Trial Support and Development Services Department is comprised of attorney resource counsel, and program analysts who are responsible for providing several services to support and manage the agency's nearly 700 contracted attorneys. This includes but is not limited to contract management and administration, case assignment for unrepresented persons, trial resource counsel for complex cases, performance, and qualification standard development. This team is also often at the forefront of developing provider relationships, cultivating a local network of providers, working collaboratively to resolve issues, and managing contractors across the state.

This team has been at the center of several transformation initiatives, most notably the development of performance standards and qualification criteria for non-attorney public defense providers, as well as performance standards and qualification criteria for public defense attorneys.

- **Non-profit.** OPDC currently contracts with 12 non-profit public defender offices that provide direct legal services to clients in 19 counties. These offices employ full-time public defense attorneys who provide all of their legal services to public defense clients. Currently, the agency funds just under 300 attorney FTE in these offices.
- **Consortia, Law Firms, and Solo Practitioners.** Currently, there are just over 400 attorney FTEs performing public defense work pursuant to these contracts. OPDC will continue to contract with these entities for the '25-'27 biennium in the same manner it contracts with non-profit public defender offices.



- **Hourly Rate Providers.** A small percentage of the public defense workload has been performed by noncontract attorneys on an hourly rate basis.

To help manage the unrepresented crisis, the Trial Support and Development division is in the process of hiring two additional program analysts.

## APPELLATE DIVISION

The criminal appellate section represents criminal defendants on direct appeal from criminal convictions. The juvenile appellate section represents parents on direct appeal from juvenile court judgments authorizing governmental interference in the constitutionally protected family sphere.

Attorneys from both sections represent youth on appeal from juvenile delinquency adjudications and dispositions including from orders authorizing a youth's waiver from juvenile court into adult court. The appellate division has devoted the resources of both sections to provide necessary representation to youth on appeal from juvenile delinquency proceedings and its practice in that area has grown substantially.

Collectively in the past year, the appellate division briefed and argued 23 cases in the Oregon Supreme Court. In the meantime, appellate division attorneys—with the support and expertise of their legal assistants and paralegals— filed more than 1,500 notices of appeal in the Oregon Court of Appeals, presented at numerous continuing legal education events (including virtually all OCDLA criminal and juvenile law events as well as the Oregon State Bar's Criminal and Juvenile law seminars), served as editors and authors for numerous legal publications, provided consultation to the criminal and juvenile trial bar (often resulting in favorable outcomes for clients at the trial court level thereby obviating the need for appeal), and served as subject matter experts on workgroups including the legislative Uniform Parentage Act workgroup and the Oregon Law Commission's Municipal and Justice Courts Appeals workgroup.

In the past year, the appellate division has hired three new attorneys, two in the criminal appellate section and one in the juvenile appellate section.

The appellate division continues to consistently provide zealous and expert appellate representation to its clients, none of which would be possible without its experienced, skilled, and mission-driven legal support staff.

## TRIAL DIVISION

In 2023, Oregon's public defense system was authorized to employ trial attorneys for the first time. Since then, OPDC has established a Trial Division and opened three trial division offices to provide public defense in criminal cases.

- Northwest Regional Trial Division Office opened in December 2023 and accepts cases in Clackamas, Washington, and Multnomah counties.
- Southern Regional Trial Division Office opened in February 2024 and accepts cases in Douglas, Jackson, and Klamath counties.
- The Central Valley Regional Trial Division Office opened in April 2024 and currently has no geographical restrictions on case assignments.

These offices currently employ 43 people, including 20 attorneys, and prioritize appointments to cases from the Oregon Judicial Department's unrepresented list. In its latest budget request, OPDC requested to grow the Trial Division to a total of 111 positions, including 60 attorneys, during the next biennium, as has requested funding for 40 additional attorneys and corresponding core staff. The Trial Division will need to grow significantly faster in subsequent budget cycles in order to ensure the agency meets the 2031 defender deficiency reduction.



**Oregon  
Public  
Defense  
Commission**

**Date:** December 6<sup>th</sup>, 2024

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

**Cc:** Jessica Kampfe, Executive Director

**From:** Jennifer Bell, Rules and Records Coordinator

**Re:** Oregon Administrative Rules

**Nature of Presentation:**

Briefing

**Background:**

- Under the Executive Branch, the Oregon Public Defense Commission will be required to develop and file Oregon Administrative Rules.
- As part of this process, a Rules Advisory Committee (RAC) will be established. The RAC will review proposed rules, help prioritize implementation dates, consider potential fiscal impact, and elevate concerns around rule language.
- For individuals not on the RAC, a public comment process will be created.
- A timeline has been drafted to include all steps of this process, allowing additional time for the initial work.

**Agency Recommendation:**

Briefing only.

**Fiscal Impact:**

None.

**Agency Proposed Motion:**

None.



**Date:** December 6, 2024

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

**Cc:** Jessica Kampfe, Executive Director

**From:** Kimberley Freeman, CAP Manager  
Heather Kessinger, Senior Policy Analyst

**Re:** Public Service Loan Forgiveness (PSLF) Certification

**Nature of Presentation:**

Briefing

**Background:**

On September 18, 2024, the Commission approved the Public Service Loan Forgiveness (PSLF) for Contractors Policy. The policy establishes criteria for agency certification for Contractors that have contracted with the Oregon Public Defense Commission (OPDC) that provide representation to those entitled to public defense services to be eligible for PSLF. [Public Service Loan Forgiveness Certification for Contractors Policy 20240918](#)

- OPDC has developed an intake process to review Contractors' request for agency certification on their PSLF applications.
- As of, November 25, 2024, the agency has received 20 Contractor certification requests.
- The agency has certified nine PSLF applications for Contractors.
- The additional certification requests are in review to confirm eligibility.
- The PSLF for Contractors Submission Process is posted to the website to provide instructions for how to submit a request for agency certification on the Contractors' PSLF application.

**Agency Recommendation:**

As we continue to process certification requests for Contractors' PSLF applications, we are refining our processes. The agency has reviewed multiple requests from Contractors, and the unique circumstances for how to determine eligibility. We are completing our due diligence to confirm the Contractor meets the federal definition of full-time employment to meet the requirement to be eligible for OPDC to certify their PSLF application. We will continue to monitor the questions received with this program and update FAQs located on the webpage. All questions should be directed to: [Policy@opdc.state.or.us](mailto:Policy@opdc.state.or.us)

**Fiscal Impact:**

None



**Oregon  
Public  
Defense  
Commission**

**Date:** December 6, 2024

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

**Cc:** Jessica Kampfe, Executive Director

**From:** Kim Freeman, CAP Manager

**Re:** Survey results from April 2024 disbursement from the \$9.9m Retention Incentive funds

**Nature of Presentation:**

Briefing

**Background:**

SB 337 appropriated out of the General Fund \$7,406,190 for Adult (Criminal) Trial Division, \$1,234,365 for the Parent Child Representation Program and \$1,234,365 for the Juvenile Trial Division to provide incentive compensation for retention of both recently hired contract providers as well as experienced contract providers.

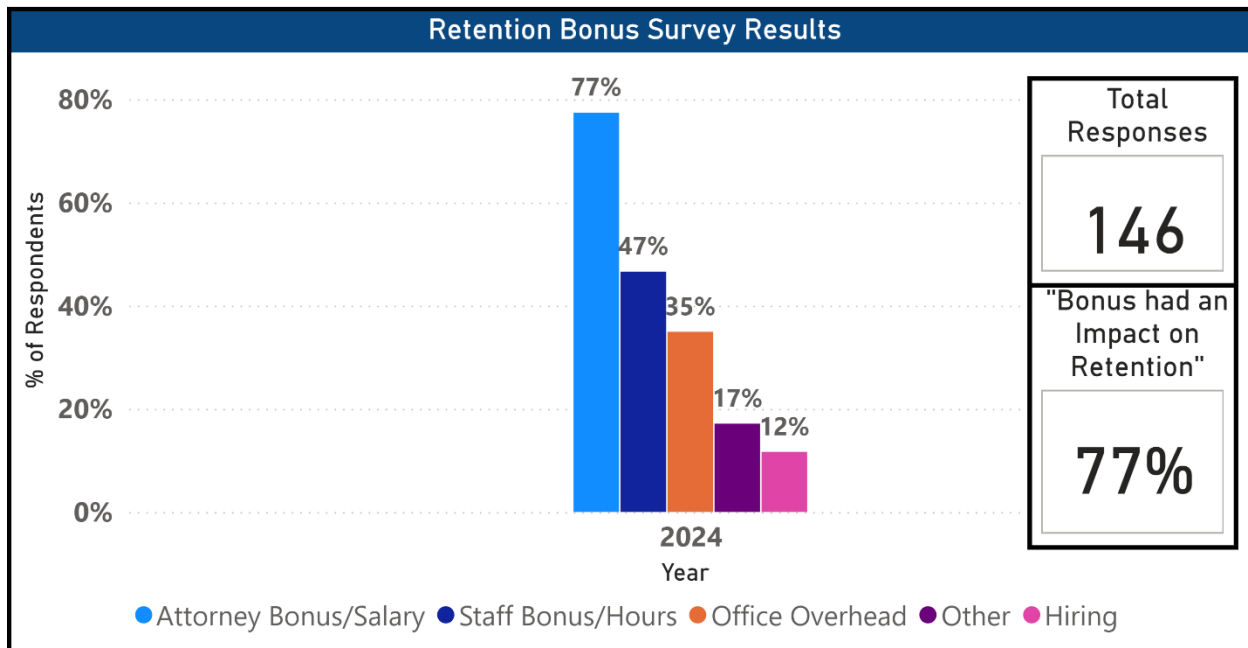
The Policy was approved by the Commission for OPDC to disseminate two (2) payments from the \$9.9 million General Fund for Services and Supplies for Professional Services. The first payment was issued on April 15, 2024. To be eligible for the incentive funding, the contractor shall not have any outstanding monthly caseload reports, along with the contractor will be required to report back to OPDC regarding how the funds were spent, whether on attorney compensation, staff compensation, additional staff hours or other overhead and expenses.

[Link to review 9.9m Retention Incentive policy:](#)

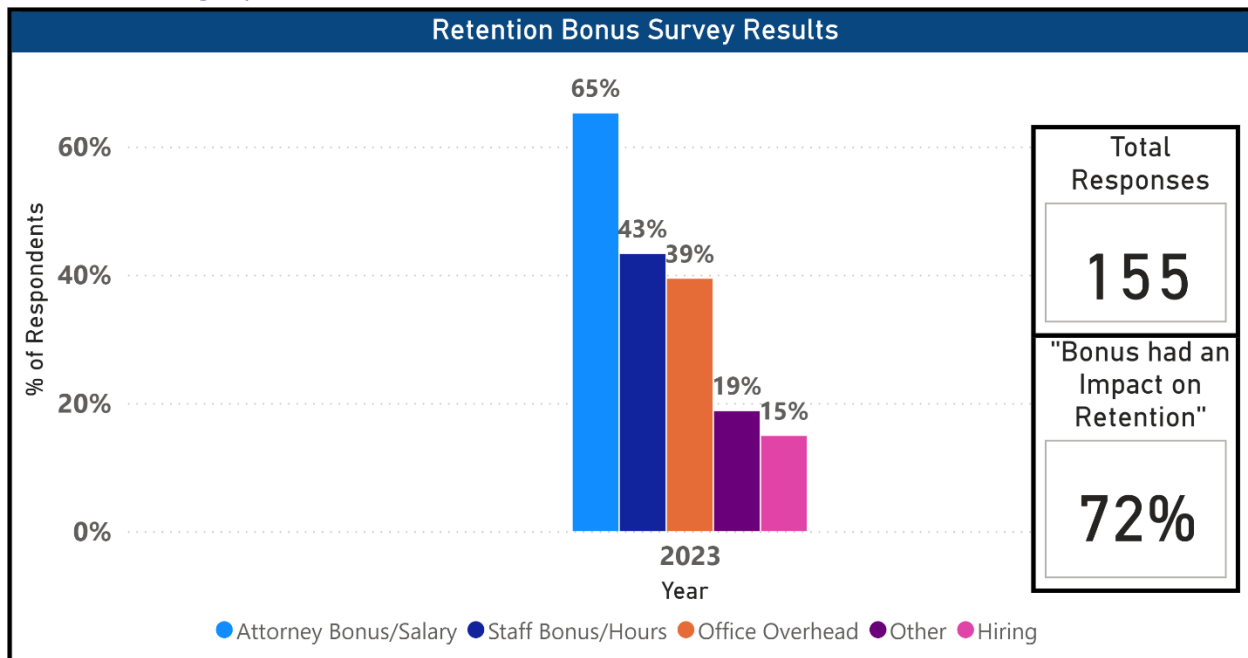
The agency disbursed \$4,937,460, to 95 Criminal contracts, 47 Juvenile contracts and 23 PCRPP contracts. The agency sent a survey in September to each provider who received incentive funds asking them to complete the survey on how the

incentive funds were used in their offices. They could select as many of the categories as they needed; Attorney Bonus, Staff Bonus, Hiring, Office Infrastructure and other. The survey was distributed to 165 contractors with 146 respondents, for 88% response rate.

Below is the graph with the results from the April 2024 Retention Incentive funds.



Below is the graph with the results from 2023 Retention Incentive funds.



**Agency Recommendation:**

This is an update to share the results of the 2024 Retention Incentive Funding. OPDC will begin communication with contractors for the 2025 Retention Incentive Funding which will be disbursed April 15, 2025. We will return to the Commission to share the results of the 2025 Retention Incentive Funds in December 2025.

**Fiscal Impact:**

None, funds allocated from SB337.

**Agency Proposed Motion:**

None.



# Oregon Public Defense Commission

## FCMS Project

December 2024

**Jessica Kampfe, Executive Director**  
[Jessica.Kampfe@opdc.state.or.us](mailto:Jessica.Kampfe@opdc.state.or.us)

**Mary Knoblock, Lead Sr. IT Project Manager**  
Presenting – on behalf of

**David Martin, CIO, FCMS**



# OPDC FCMS Stage Gate 3

# Accomplishments

- 1. Addendum #1:** Addendum #1 – Completed and Posted to Oregon Buys 11/14.
- 2. RFP Vendor Q&A Round:** Vendor Questions Received & Distributed 11/15.
- 3. Vendor Q&A Responses:** Project Team Answered and Returned to Procurement for Review 11/21.
- 4. Future State Process Maps –** Built with first workgroup: Finance Team – Completed 11/19.

## OUR VISION

# Next Steps

- RFP Addendum 2 Published November 26, 2024
- RFP Q&A Vendor Responses Published November 26, 2024
- RFP Protest Period Ends December 3, 2024
- Proposals Due Deadline, December 20, 2024
- Future State Process Map Workgroup Reviews & Modifications: Data, Trial, Appellate, Juvenile Due – January 23, 2025.



# Risk Governance

1. **Schedule** – risks around critical path for iQMS interviews, Change Management Discovery Sessions, Procurement Activities, and Stage 3 Activities for Future State Process Mapping, as well as Use Case Development, all running in November through March 2025. SME's availability and critical path being managed closely.

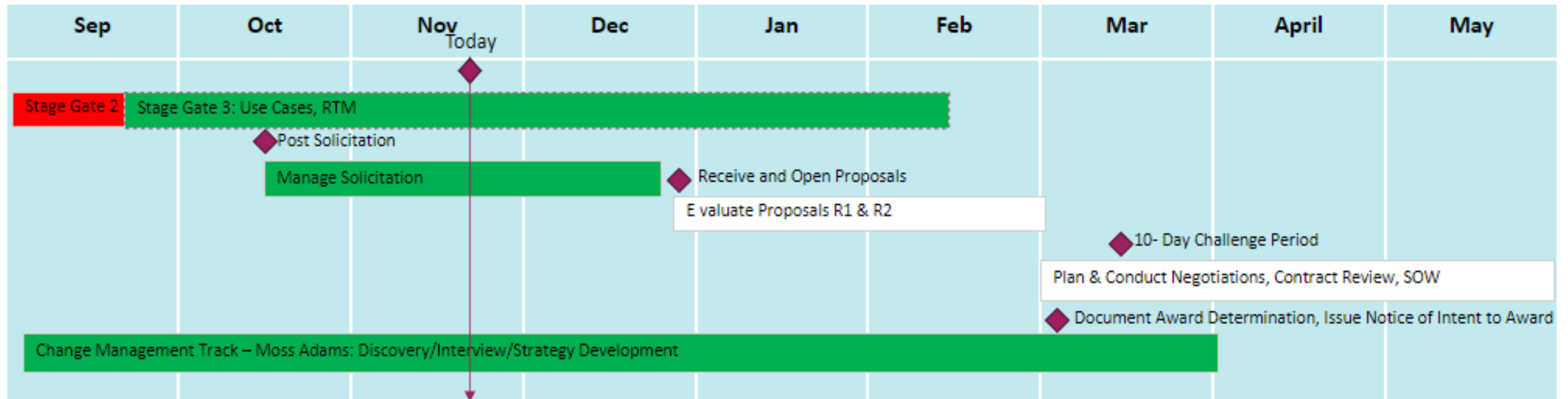
# Schedule – Critical Path

- . Address RFP Questions: Nov. 5 - November 26, 2024
- . Protest Period runs: November 25-December 2, 2024
- . The RFP Protest period ends December 3, 2024
- . Proposals due deadline, December 20, 2024
- . Round 1 Evaluation complete, January 21, 2025
- . Round 2 Evaluations complete, February 21, 2025

# Procurement Timeline

## Current Dependencies

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



# Status

## FCMS Monthly Project Status Report - November

**Project Status – Medium Risk** \*Critical Path items for Procurement Timeline allow little lag in schedule presenting timeline constraints.

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

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

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

**Scope Status - Low Risk** \*Stage Gate 2 Passed.



# Thank you

