

**Members:**

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

**Nonvoting Member:**

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

**Executive Director:**

Jessica Kampfe

**Oregon Public Defense Commission**

Meeting will occur virtually.  
 Wednesday, November 13, 2024  
 9:00 AM – approx. 1:00 PM PST  
 Via Zoom\*

**Administrative Announcement**

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

# AGENDA

Approx. Time	Item	Lead(s)
9:00-9:05	Welcome	Chair Nash
9:05-9:20	Public Comment	
9:20-9:35	<b>Update:</b> <a href="#">Unrepresented Persons in Oregon Courts</a>	Jessica Kampfe Harry Noone
9:35-9:50	<b>Update:</b> Budget	Ralph Amador
9:50-10:20	<b>Discussion:</b> December Legislative Days <ul style="list-style-type: none"> <li>Update on E-Board Request</li> <li>Update on Remediation Report</li> <li>Introduction: Anna Braun</li> </ul>	Jessica Kampfe
10:20-10:50	<b>Action Item:</b> <a href="#">Approve Comprehensive Public Defense Report</a>	Jessica Kampfe
10:50-11:15	<b>Action Item:</b> <a href="#">Approve Organizational Chart</a>	Chris Henderson
11:15-11:25	****Break****	
11:25-11:40	<b>Update:</b> <a href="#">Audit Committee Charter</a>	Vice Chair Mandiberg

11:40-11:50	<b>Update:</b> <a href="#">FCMS</a>	David Martin
11:50-12:00	<b>Update:</b> Director's Update	Jessica Kampfe
12:00-12:20	<b>Briefing:</b> Local Court Spotlight: Clatsop County	Judge Peterson
1:00 (Approximately)	<b>***Adjourn***</b>	

*\*To join the Zoom meeting, click this link: <https://zoom.us/j/92334877800>. 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 November 11, 2024 using our [online form](#). Please include your full name, organization/entity name, email, and phone number with your request. You will be provided a meeting link to join the meeting as a panelist for the public comment portion of the meeting.*

*The commission also welcomes written public comment. If you wish to provide written public comment, please submit your comment using our [online form](#). Please include your full name, organization/entity name, email, and phone number on your submission. Written comment regarding action items shall be submitted no later than two (2) business days prior to the meeting. All written comment received by the close of business two (2) business days in advance of the meeting will be provided to Voting and Non-voting Members and posted to the public on the OPDC website prior to the meeting. If you would like to provide attachments to accompany your written comment, please email them to [info@opdc.state.or.us](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: December 6, 2024, 9am – 1pm – In-Person at the Benson Hotel Crystal Ballroom**

*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>*



October 16, 2024

Oregon Public Defense Commission  
1175 Court Street NE  
Salem, OR 9730

**RE: Retaliatory Conduct by Eric Deitrick, General Counsel for OPDC**

Dear OPDC Members,

I am Sandy Chung, Executive Director of the ACLU of Oregon, a civil liberties, civil rights, and democracy organization representing more than 27,000 members statewide.

More than three years ago – in August 2021 – the ACLU of Oregon asked OPDC to initiate an investigation. We requested this after multiple women defense attorneys shared with us their experiences involving pay inequity by OPDC, as well as retaliation by Eric Deitrick, OPDC’s General Counsel.

Near the end of summer 2024, three years after the ACLU of Oregon raised the concerns, we finally received a copy of the investigation report regarding the retaliation concerns. The investigator engaged by OPDC found that Deitrick engaged in retaliatory and deeply problematic conduct against multiple women attorneys.

In a letter dated September 12, 2024, Jessica Kampfe, Executive Director of OPDC, wrote that “[t]he incidents that were referred to in the Workplace Solutions investigation report occurred between 2019 and 2021” and that “[t]he concerns outlined in the investigation report have been addressed and there have been no further complaints submitted since 2021.”

**Kampfe’s statement about no further complaints since 2021 is not true. According to the investigation report, OPDC and Deitrick continued to engage in retaliatory and problematic acts after 2021 and these acts were reported:**

- The investigator confirmed that a “further act of retaliation” occurred **in late 2021/early 2022** when Witness 6’s previously-agreed-to hourly fee of \$100 per hour was unilaterally decreased to \$75 by OPDC. The date of this retaliation was approximately four months **after** OPDC started the investigation about Deitrick’s retaliatory acts.
- According to the investigator, Deitrick engaged in additional “problematic” actions against Witness 6 **during 2023**. Specifically, he actively supported opposition to an attorney’s fee petition by Witness 6; however, another OPDC staff member had approved Witness 6 to pursue the fee petition, and Deitrick did not stop his opposition until he learned of this.

**Kampfe's statement that "[t]he concerns outlined in the investigation report have been addressed" also is incorrect:**

- Witnesses 3, 4 and 6 all had their concerns substantiated by the investigation. According to these witnesses, however, OPDC has not involved them in any process to provide them redress for Deitrick's retaliation and deeply problematic conduct.
- There is no information supporting that Deitrick received disciplinary action that was appropriate and commensurate to the retaliatory and deeply problematic conduct he engaged in against the multiple women attorneys.

**Also, the investigation report does not address retaliation experienced by an OPDC employee who reported directly to Deitrick:**

- During 2021, a woman employee of OPDC reported to the agency's HR department that Deitrick had engaged in multiple instances of retaliation against her for engaging in legally protected activity. It appears that the HR department did not address these retaliation concerns in any substantive manner.
- When this person tried to speak to Jill Goldsmith, the investigator engaged by OPDC, she was told that the investigator's scope did not include retaliation experienced by OPDC employees.

**It should be a given that the General Counsel of Oregon's public defense agency should not engage in retaliation towards the agency's employees and contractors. Moreover, after an investigation substantiates that the General Counsel engaged in retaliatory conduct against multiple people, the General Counsel should no longer be in their position.**

**We request that OPDC immediately take the only appropriate action in this situation: terminate Deitrick's employment with OPDC.**

Respectfully,

**Sandy Chung**  
Executive Director  
ACLU of Oregon

**Kelly Simon**  
Legal Director  
ACLU of Oregon

**Jessica Maravilla**  
Policy Director  
ACLU of Oregon





# Oregon Judicial Department

## Unrepresented Crisis – November 2024 Update

### Key Insights

OJD is not able to provide the most recent statewide unrepresented data for this report, due to conflicts between the time needed to complete our data analysis and the Commission meeting timelines. This month's report is a Local Court Spotlight focused on Clatsop County, as Presiding Judge Beau Peterson will be presenting to the Commission at the November meeting.

Beginning with the December 2024 Update, OJD will publish these monthly reports on a regular schedule for all recipients, rather than provide partial or localized reports based on OPDC commission meeting schedules. We will continue to provide the Commission with local data to support court presentations.

#### **Local Court Spotlight: Clatsop**

##### Unrepresented Trends

The total number of unrepresented cases in Clatsop County has trended upwards since September 2023 with the total number remaining above 120 cases since April 2024 ([Figure 1](#) and [Figure 2](#)).

##### Unrepresented – Out-of-Custody

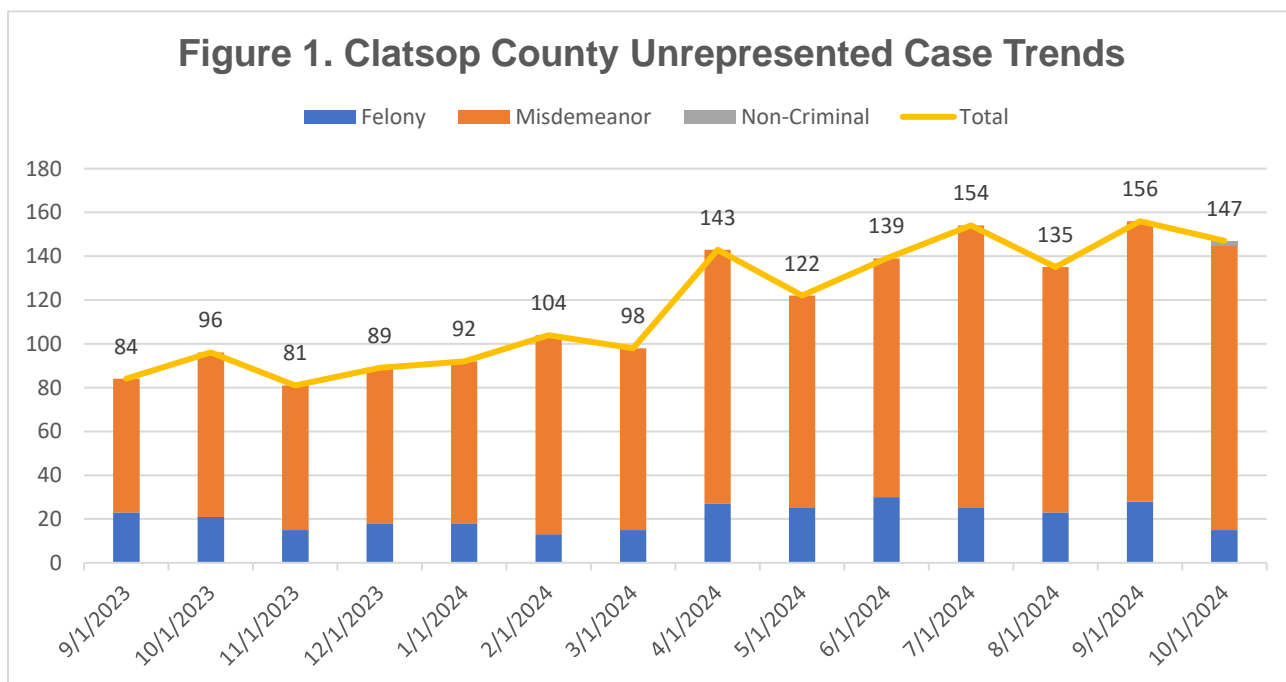
On average, out-of-custody pre-trial cases are on the unrepresented list for 38 days before an attorney is assigned ([Figure 5](#)). A defense provider who will be resigning at the end of the year has taken on all outstanding out-of-custody probation violations. Because of this, an out-of-custody probation violation case is on the unrepresented list for an average of 3 days,

##### Criminal Case Filings

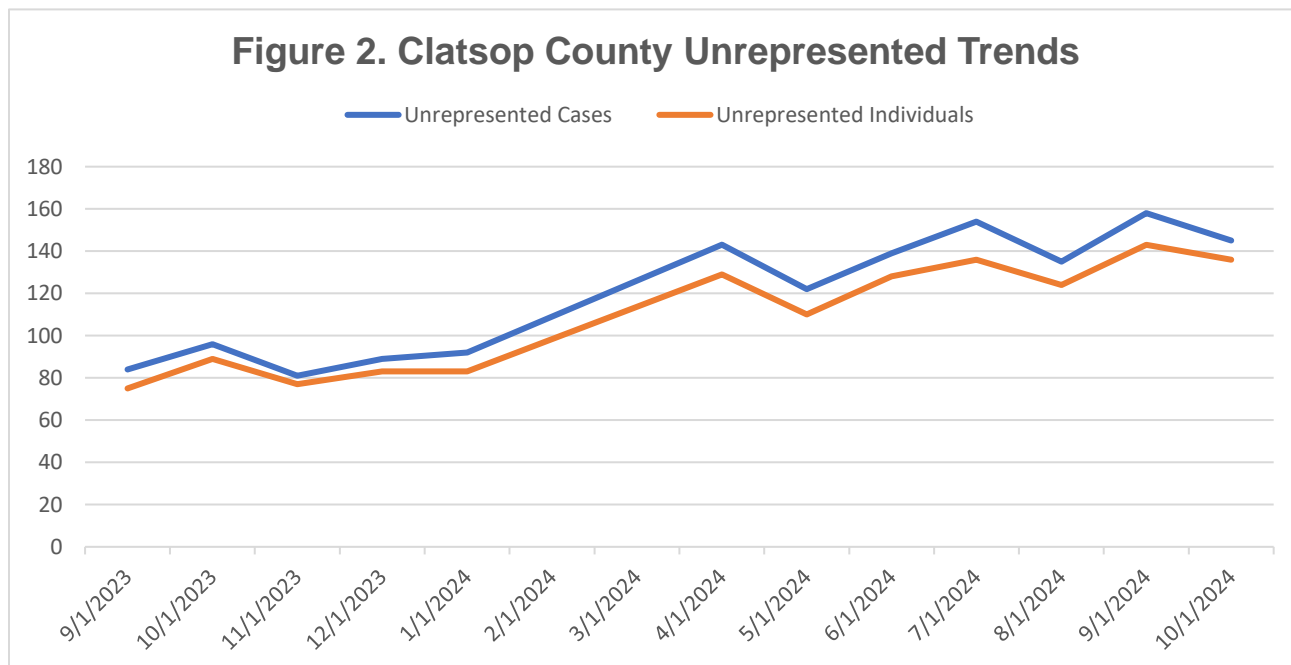
The number of misdemeanor criminal case filings increased from June 2023 to August 2024, in part due to increased staffing in the district attorney's office ([Figure 6](#)). Previously, the district attorney's office was not filing as many misdemeanors and had a backlog of cases to be filed due to vacancies.

## Unrepresented Trends

**Figure 1** shows the number of unrepresented cases by case type in Clatsop County. Most of the unrepresented cases are misdemeanor cases, which increased significantly in April of 2024. The number of unrepresented felony cases also increased but have not exceeded 30 cases in a month. **Figure 2** shows the number of unrepresented individuals compared to the number of unrepresented cases in Clatsop County. There are more unrepresented cases than unrepresented persons, which means there are some unrepresented individuals with more than one pending unrepresented case.



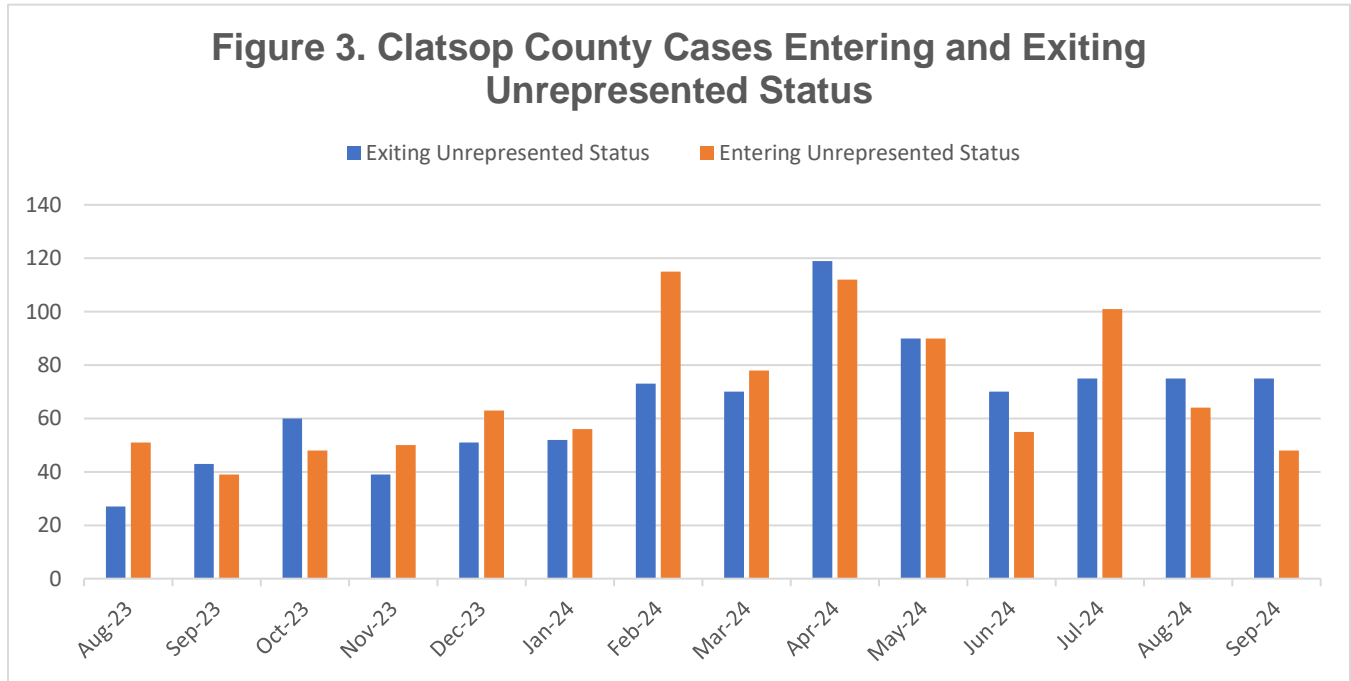
Source: OJD Odyssey Data (eCourt).



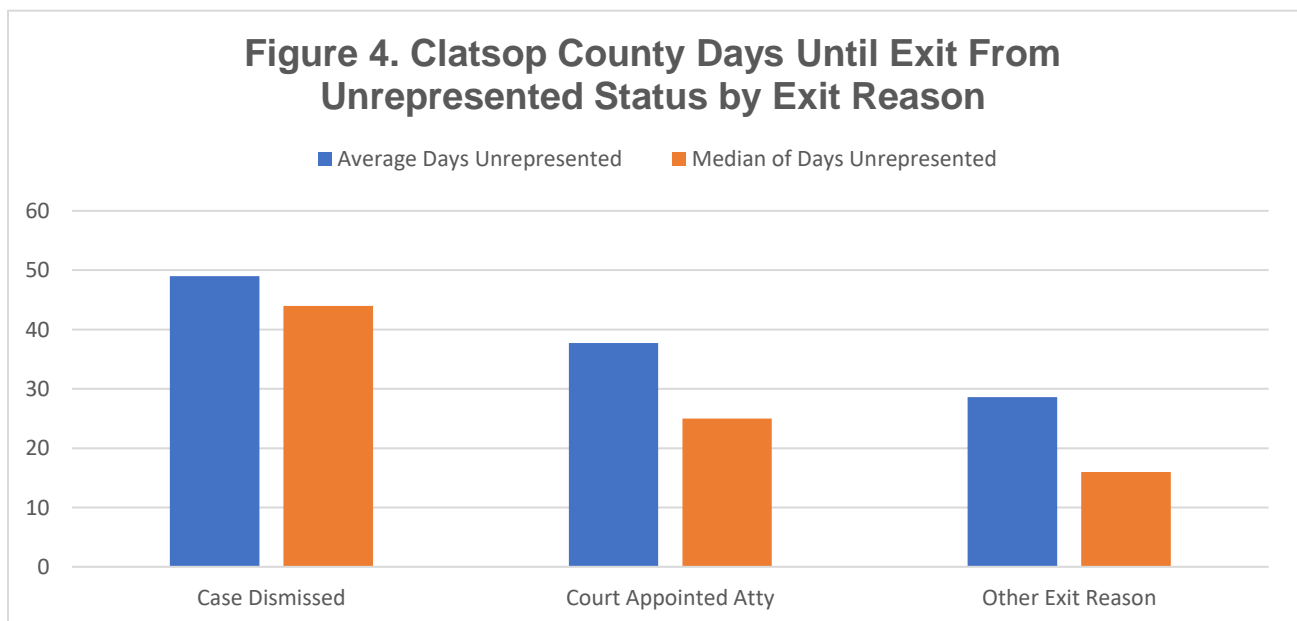
Source: OJD Odyssey Data (eCourt).

**Figure 3** shows the number of unrepresented cases entering and exiting unrepresented status each month. In February 2024 and July 2024, significantly more cases entered the unrepresented list than exited. However, in June, August, and September 2024, more cases exited the list than entered. When more cases exit the list than enter, the total number of unrepresented cases decreases.

**Figure 4** show the average and median number of days a case is on the unrepresented list, organized by the reason for exiting. A case may exit the unrepresented list because an attorney was appointed, the case was dismissed, or other reasons (e.g., the defendant hired an attorney, defendant waived counsel, etc.).



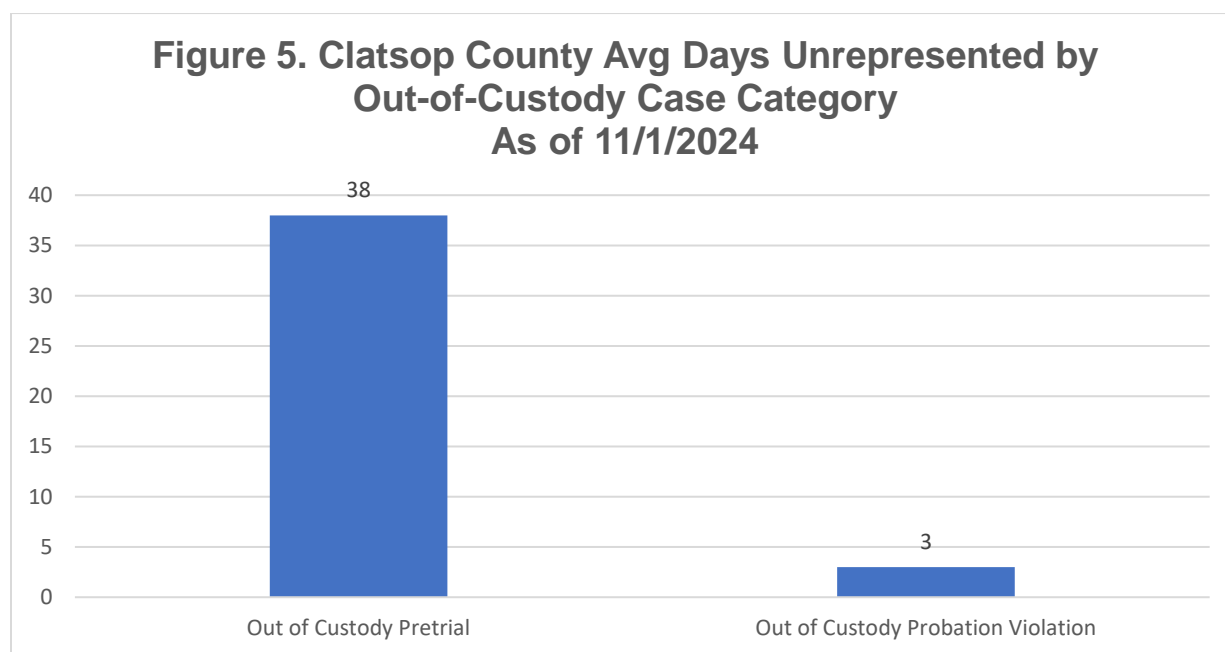
Source: OJD Odyssey Data (eCourt).



Source: OJD Odyssey Data (eCourt).

## Unrepresented – Out-of-Custody

**Figure 5** shows the average number of days a case is unrepresented by out-of-custody case category. In Clatsop County, the average number of days an out-of-custody pretrial case is unrepresented is 38 days, whereas an out-of-custody probation violation (PV) is unrepresented on average for 3 days. The average for out-of-custody PV cases decreased substantially because one defense provider is primarily focused on accepting PV cases. The provider is starting a new job in 2025 and is trying to accept cases that will likely conclude before the end of the year. The more cases the attorney can accept and conclude before leaving Clatsop County, the fewer cases will need to be transferred to another attorney or potentially be added to the unrepresented list. It is likely the unrepresented list, and specifically the unrepresented out-of-custody PV cases, will begin to increase in 2025 unless at least one new provider is identified quickly.

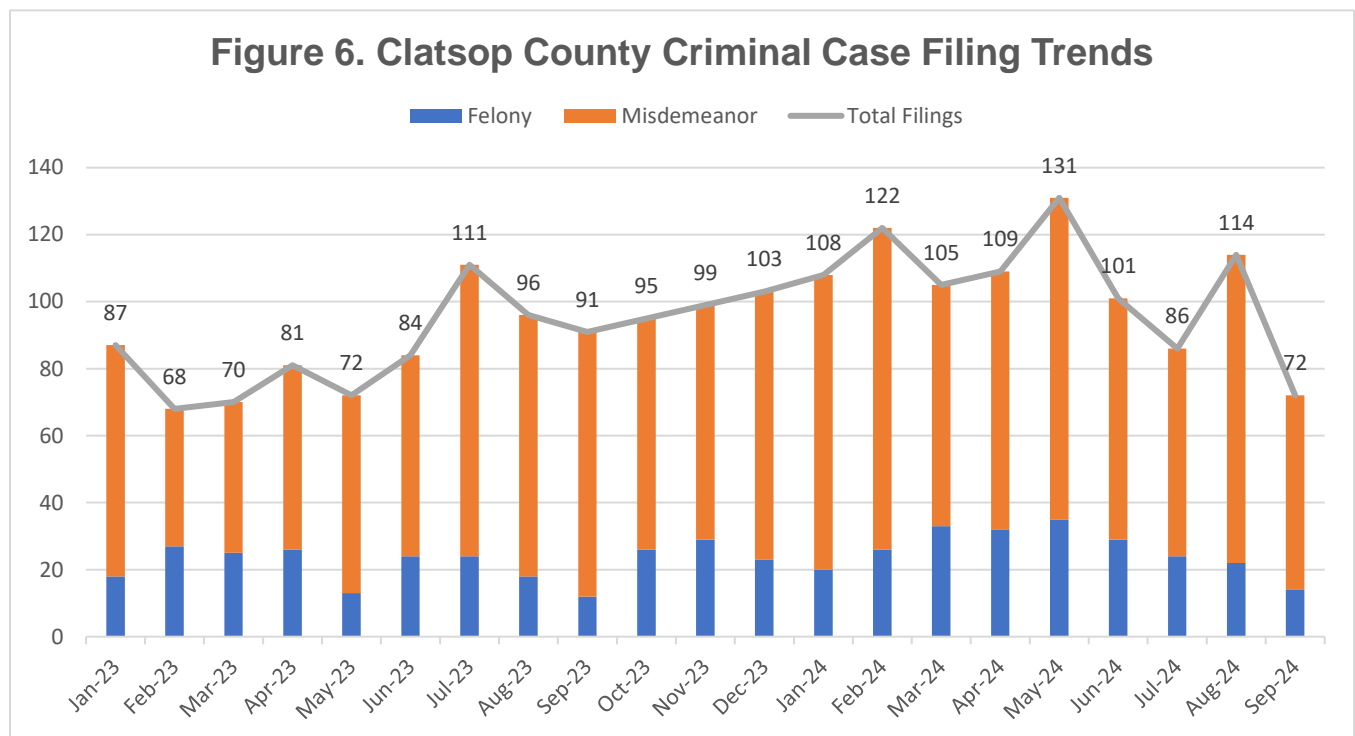


Source: OJD Odyssey Data (eCourt).

## Criminal Case Filings

**Figure 6** shows criminal case filing trends in Clatsop County since January 2023. Since June 2023 there has been an increase in case filings, specifically misdemeanor case filings, although the trend since May 2024 generally has been fewer filings. One reason why case filings increased is the district attorney's office was able to fill vacant positions. Prior to filling these vacancies, the district attorney's office was not filing as many misdemeanor cases and had a backlog of cases to be filed. The decrease in criminal case filings in September 2024

may account for part of why fewer cases entered the unrepresented list in September 2024 ([Figure 3](#)).



Source: OJD Odyssey Data (eCourt).

# Oregon Public Defense Commission

## OPDC Data Overview

**Jessica Kampfe, Executive Director**  
Jessica.Kampfe@opdc.state.or.us

November 13th, 2024



## The Contract MAC Standard

- Maximum Attorney Caseload
- A Maximum, not a Quota
- Workload Standard and Ethical Issues

MAC Standard by Case Categories		
Case Category	Weight	Standard
Capital Murder	50	6
Civil Commitment	1.3	230
Delinquency	2.3	132
Dependency/Termination	4.3	69
Jessica Law	50	6
Major Felony	2.2	138
Measure 11	6.7	45
Minor Felony	1.8	165
Misdemeanor	1	300
Murder	50	6
PCR Agg	6	45
PCR/Habeas	6.7	45
Probation Violations-Criminal	0.36	825
Probation Violations-Juvenile	0.36	825

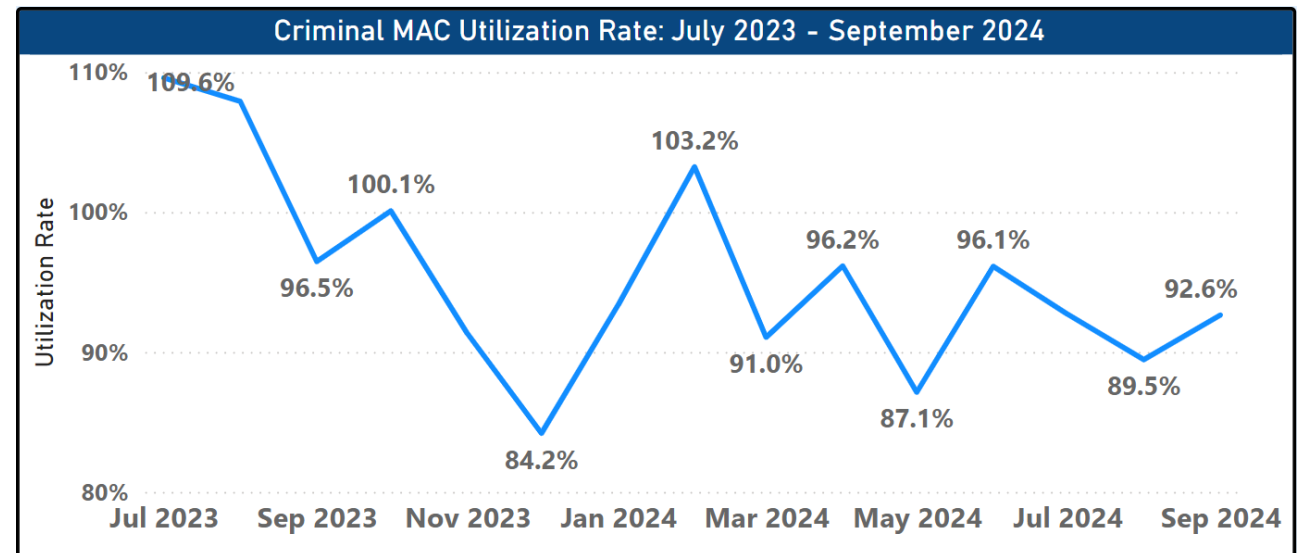
**"Standard" column shows how many cases can be taken at that category at a full-time workload (or "1 MAC")**

## System Capacity

# Contractor Utilization (Criminal contracts)

- Reported MAC: July 2023 – September 2024
- Based on Self-reported contractor caseloads
- Only new Appointments get calculated as "Reported MAC" (no open cases)
- Prorated MAC: Attorney capacity based on portion of FTE *devoted to client representation* (excludes Training, Supervision, and Spec. Courts), accounting for Attorney specific start and end dates
- Ex. "Attorney A" is 1 MAC for 6 months and switches to 0.5 MAC for 6 months. This equals a 0.75 Prorated MAC.

Criminal MAC Utilization			
OPDC Contract Data July 2023 - September 2024			
ENTITY	Reported MAC	Prorated MAC	Utilization
⊕ Consortium	201.9	215.7	93.6%
⊕ Firm	60.6	61.8	98.1%
⊕ PD	189.3	225.3	84.0%
⊕ Sole Proprietorship	6.6	7.4	88.3%
<b>Total</b>	<b>458.3</b>	<b>510.3</b>	<b>89.8%</b>



For Criminal Contracts in all counties. Excluding "Statewide" Contractors

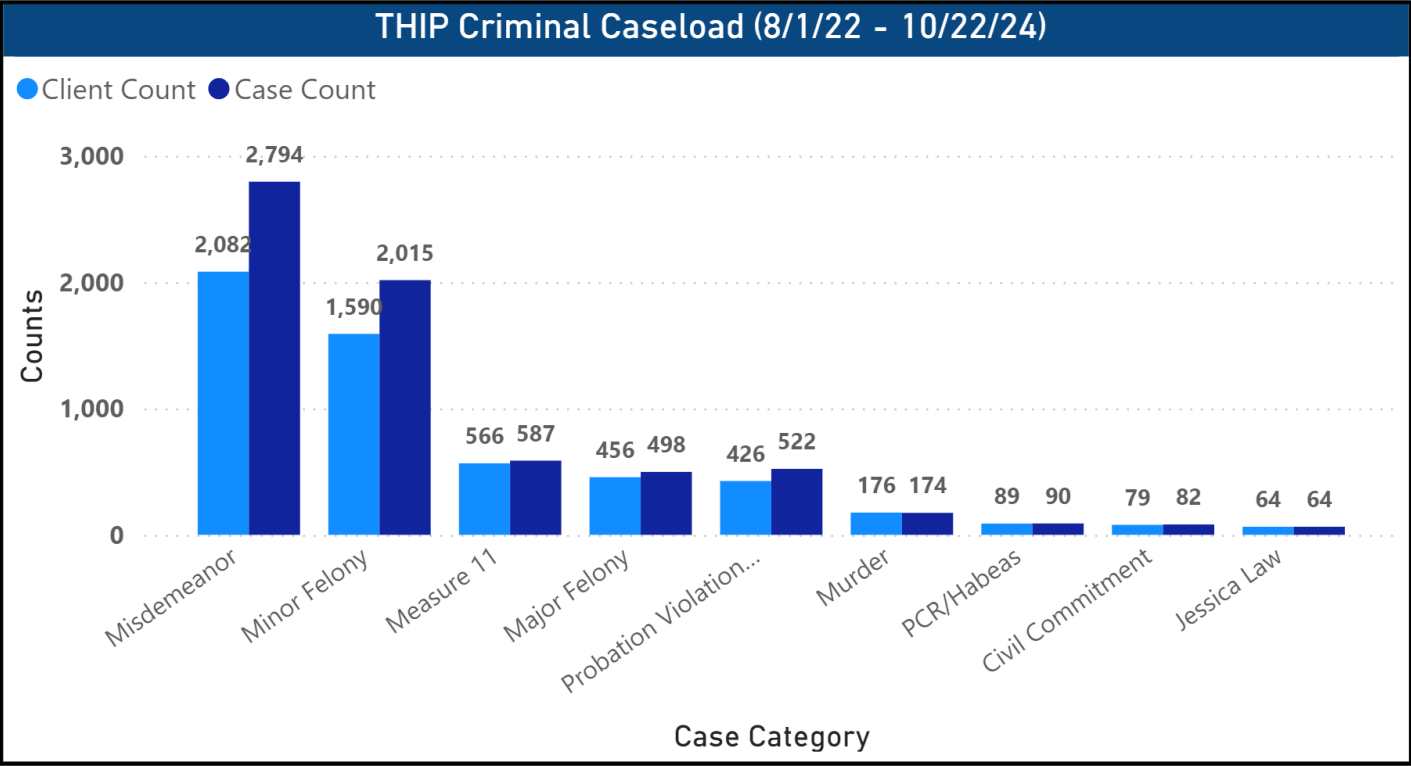


System Capacity

THIP

- Temporary Hourly Increase Program
- Incentivize Private bar appointments to Unrepresented Cases

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.		



## System Capacity

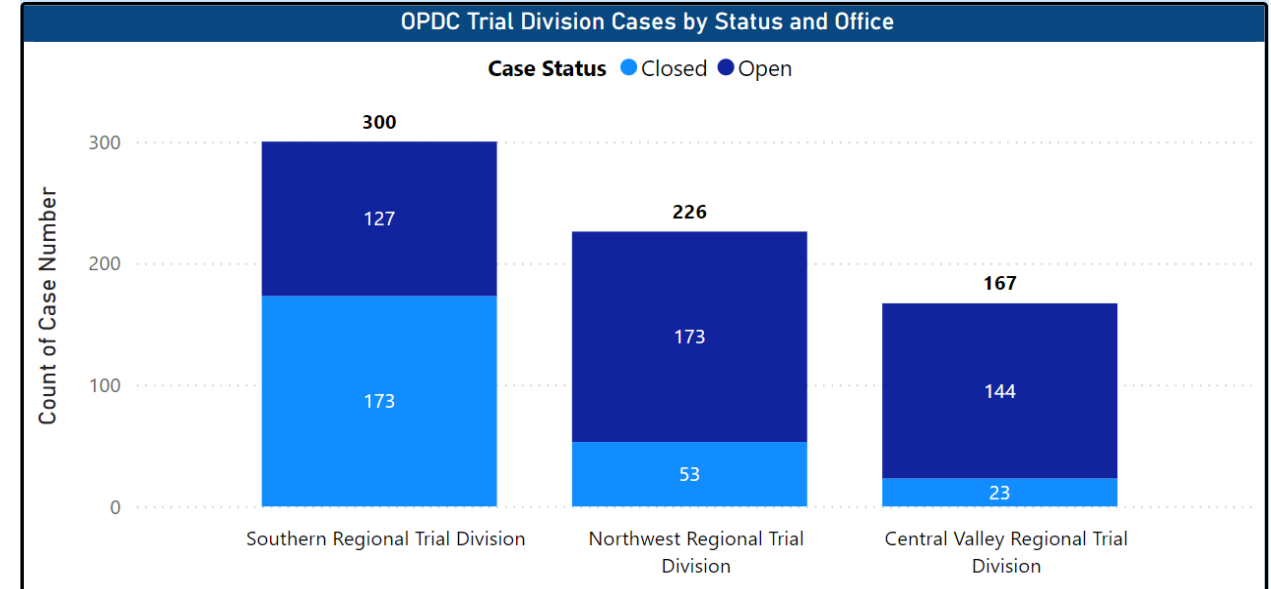
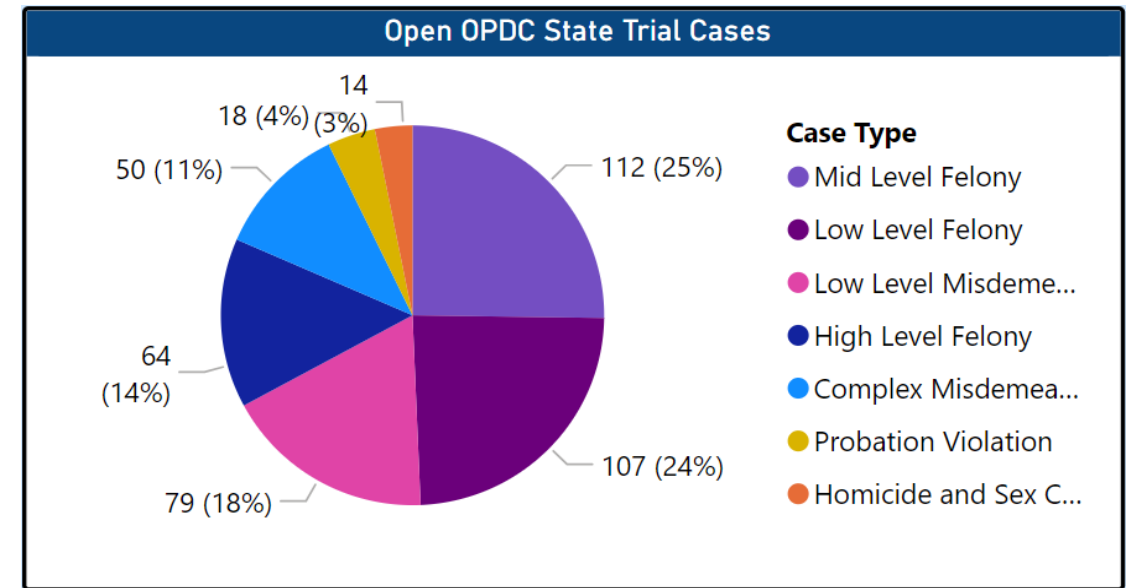
# State Trial Offices

3 offices with a total of 18 attorneys

- Each office has support staff, investigators, and case managers

**OPDC Trial Cases by Count of Client's Highest Charge & All Cases**

Case Type	Count of Clients by Highest Charge	Count of Cases
Low Level Felony	91	160
Mid Level Felony	91	155
Low Level Misdemeanor	42	137
Complex Misdemeanor	53	97
High Level Felony	76	79
Probation Violation	11	48
Homicide and Sex Cases	17	17
<b>Total</b>	<b>381</b>	<b>693</b>



Source: OPDC Case Management System as of 10/21/24

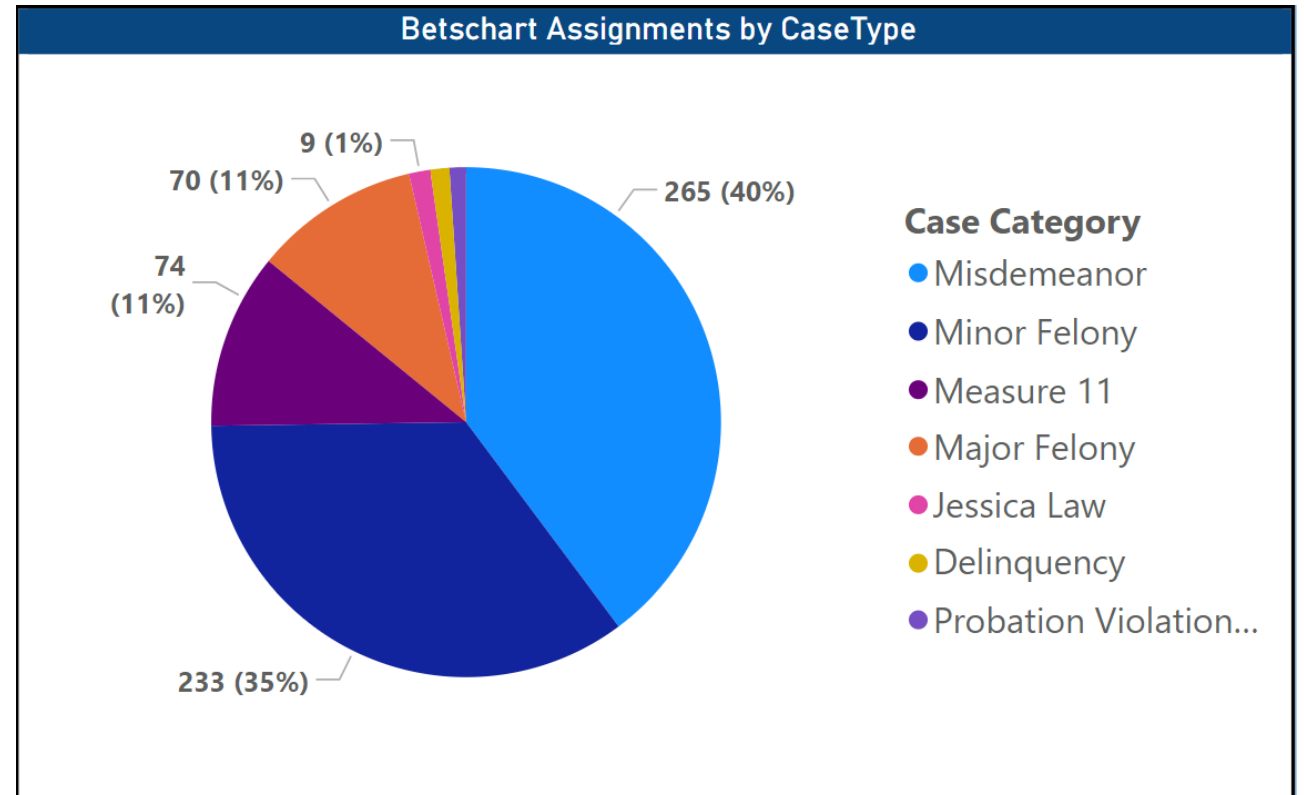
## System Capacity

# Betschart Attorney Assignments

Coordinated by OPDC  
Analysts

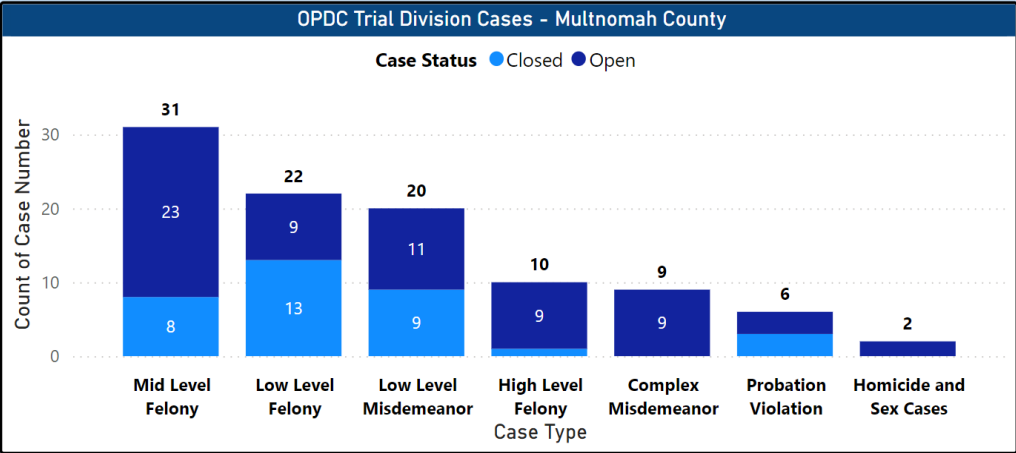
- Daily Review of Unrepresented List
- Analysts contact attorneys who may be willing to accept appointments, track results

Betschart Assignments by Program			
Assignment	Attorney Count	Client Count	Case Count
Contract	41	58	69
Hourly	106	409	541
Trial Division	11	49	56
<b>Total</b>	<b>152</b>	<b>515</b>	<b>666</b>



# Unrepresented and County Specific Challenges

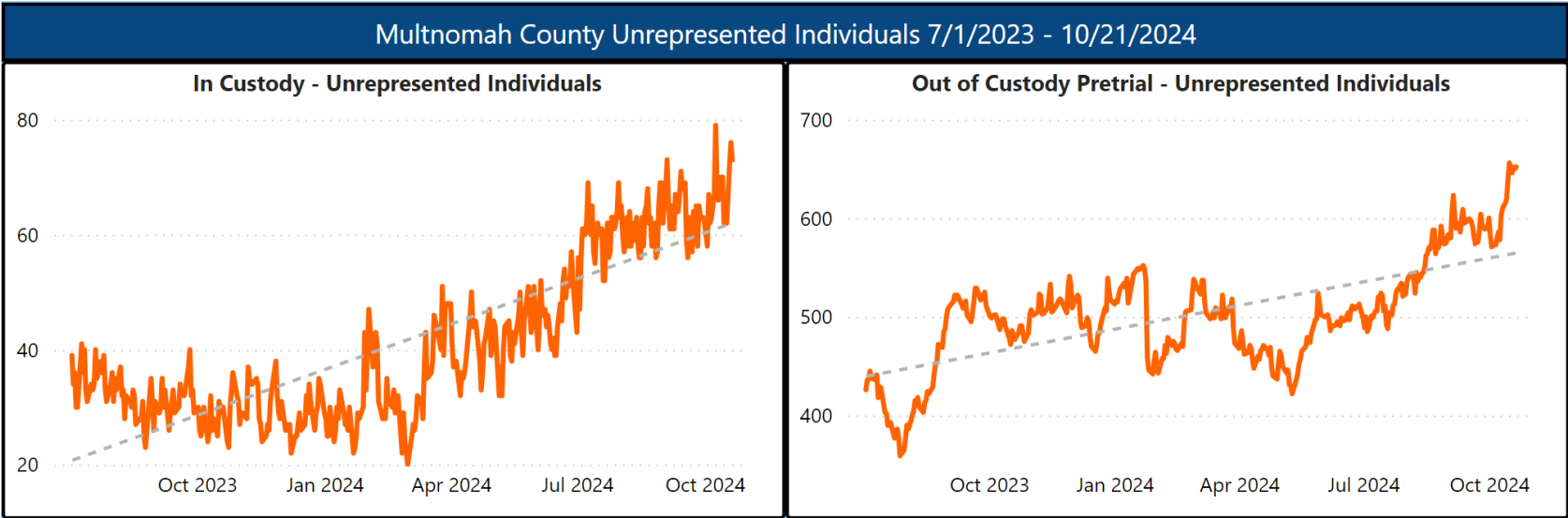
Criminal MAC Utilization			
OPDC Contract Data (July 2023 - September 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
<input type="checkbox"/> Multnomah	84.2	97.0	86.9%
Consortium	16.7	15.8	105.2%
PD	67.1	80.5	83.3%
Sole Proprietorship	0.5	0.6	82.3%
Total	84.2	97.0	86.9%



Thru 10/21/24

Contract Attorney Retention: July 2023 - October 2024					
HomeCounty	New Attys	Departed Attys	Now State Trial	Now Hourly	Left Public Defense
<input type="checkbox"/> Multnomah	21	20		5	15
<input type="checkbox"/> Attorney 4	2	2			2
<input type="checkbox"/> Attorney 3	1	7		3	4
<input type="checkbox"/> Attorney 2	6	7		2	5
<input type="checkbox"/> Attorney 1	12	4			4
Total	21	20		5	15

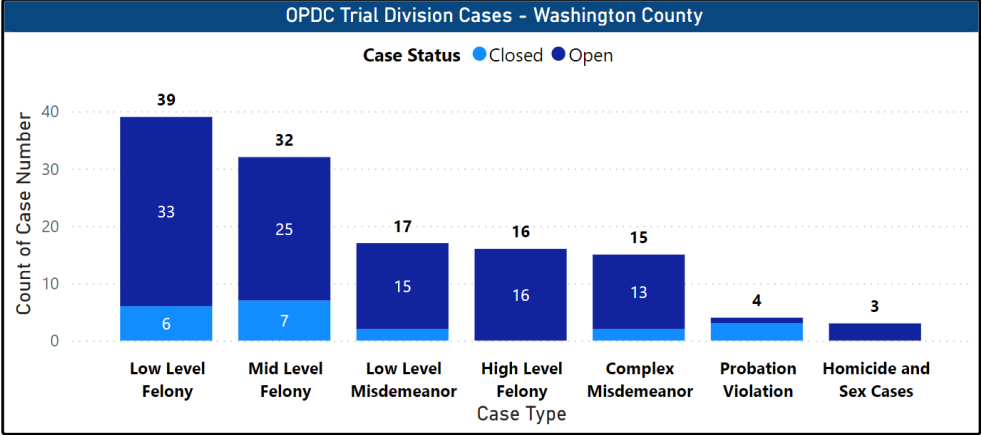
THIP Caseload (thru 10/21/24)		
Case County	Client Count	Case Count
<input type="checkbox"/> Multnomah	713	1,119
Civil Commitment	1	1
Delinquency	5	12
Dependency/Termination	2	2
Jessica Law	7	7
Major Felony	44	48
Measure 11	72	77
Minor Felony	272	399
Misdemeanor	360	517
Murder	47	46
Other	1	1
PCR/Habeas	2	2
Probation Violations-Criminal	10	11
Total	713	1,119



Source: OJD OPDS Unrepresented Power BI Dashboard

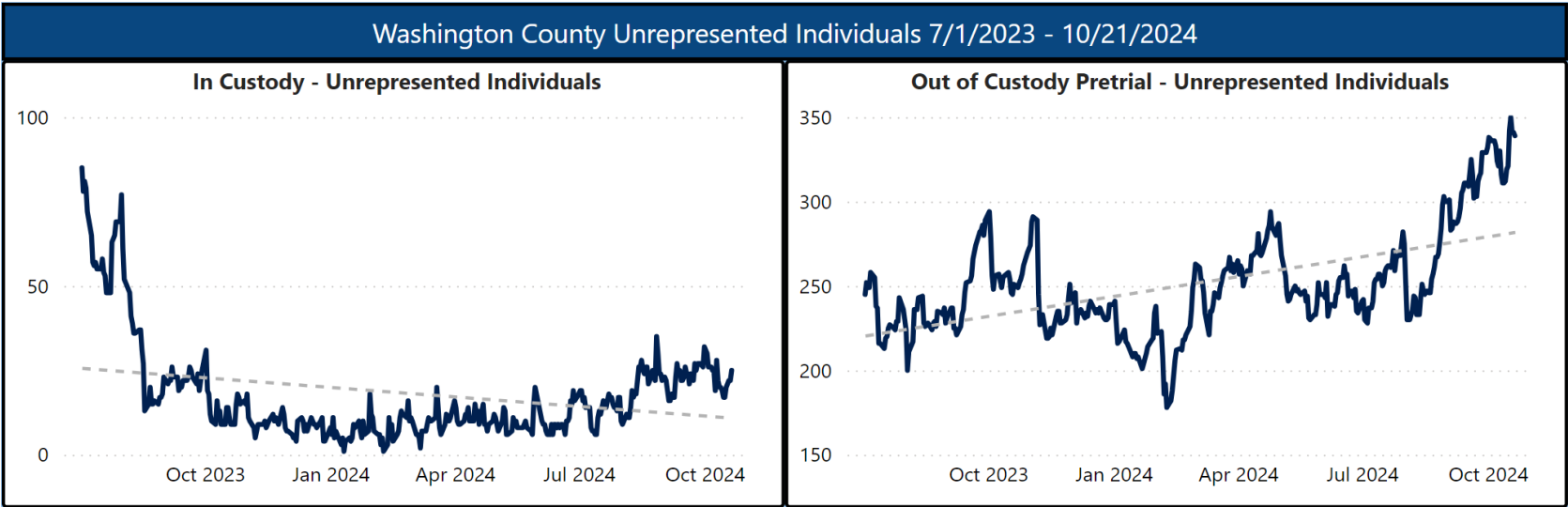
# Washington

Criminal MAC Utilization			
OPDC Contract Data (July 2023 - September 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
Washington	53.3	53.5	99.6%
Consortium	7.5	6.8	110.2%
Firm	17.1	17.8	95.8%
PD	27.7	27.6	100.4%
Sole Proprietorship	0.9	1.2	76.5%
Total	53.3	53.5	99.6%



Thru 10/21/24

Contract Attorney Retention: July 2023 - October 2024					
HomeCounty	New Attys	Departed Attys	Now State Trial	Now Hourly	Left Public Defense
Washington	18	20	2	7	11
Attorney 4	1	1		1	0
Attorney 3	4	11	2		9
Attorney 2	8	9		6	3
Attorney 1	7	2			2
Total	18	20	2	7	11

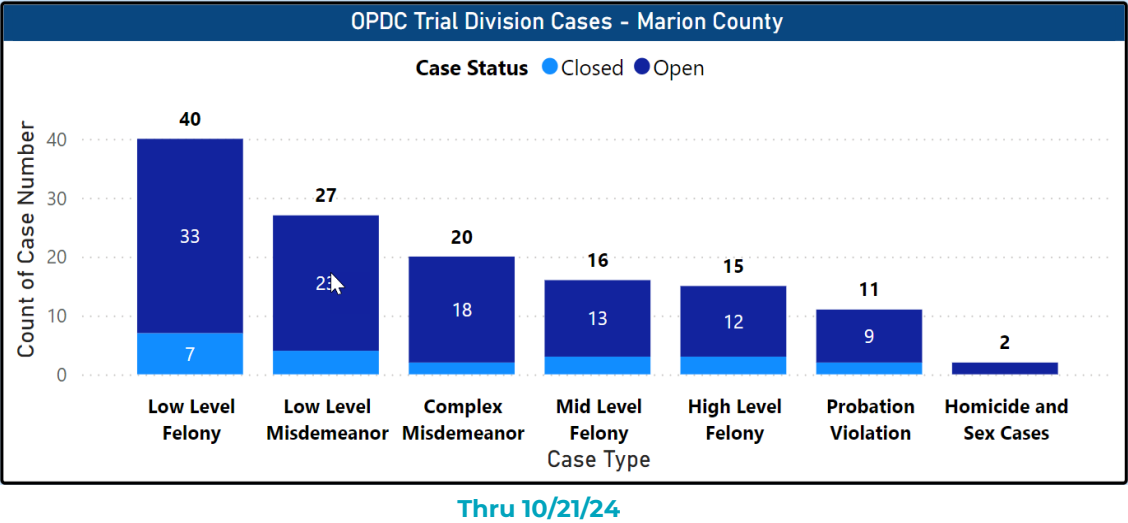


THIP Caseload (thru 10/21/24)		
Case County	Client Count	Case Count
Washington	656	980
Delinquency	58	76
Dependency/Termination	8	10
Jessica Law	19	19
Major Felony	91	97
Measure 11	169	175
Minor Felony	230	283
Misdemeanor	172	248
Murder	22	22
PCR/Habeas	17	17
Probation Violations-Criminal	40	49
Total	656	980

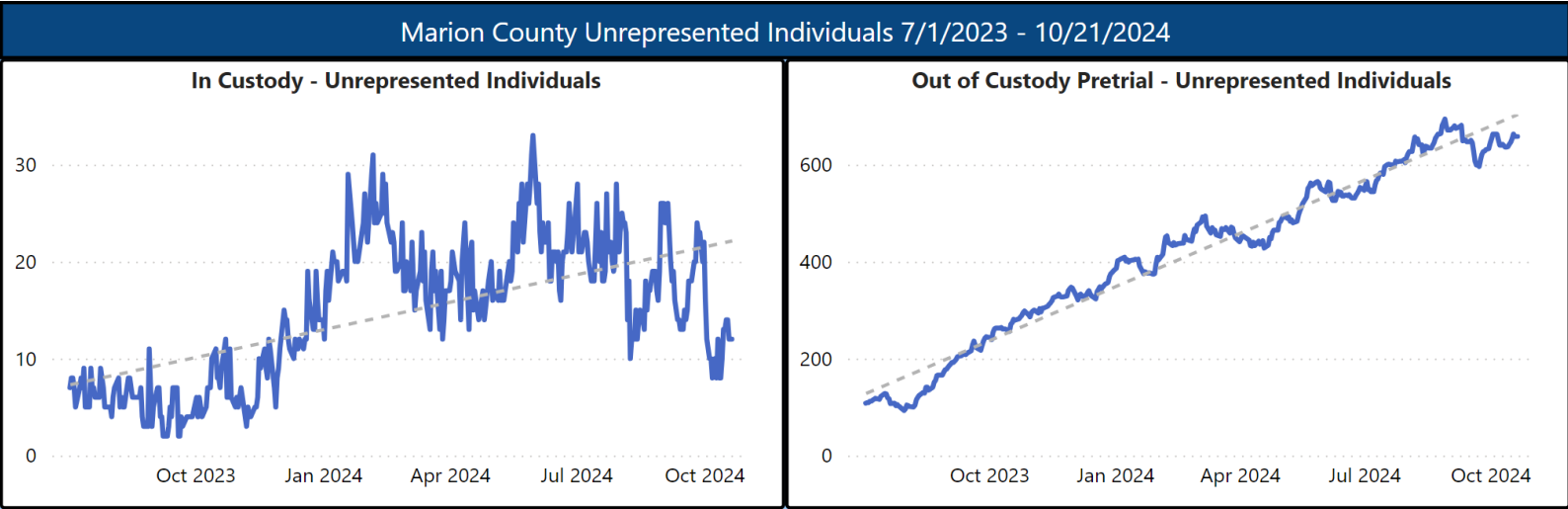
Source: OJD OPDS Unrepresented Power BI Dashboard

# Marion

Criminal MAC Utilization			
OPDC Contract Data (July 2023 - September 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
Marion	31.5	45.9	68.7%
Consortium	18.8	24.0	78.4%
Firm	0.4	0.9	44.7%
PD	12.3	21.0	58.6%
Total	31.5	45.9	68.7%



Contract Attorney Retention: July 2023 - October 2024					
HomeCounty	New Attys	Departed Attys	Now State Trial	Now Hourly	Left Public Defense
Marion	15	18	4	5	9
Attorney 4	2	5	1	1	3
Attorney 3	2	4	2		2
Attorney 2	3	2	1		1
Attorney 1	8	7		4	3
Total	15	18	4	5	9

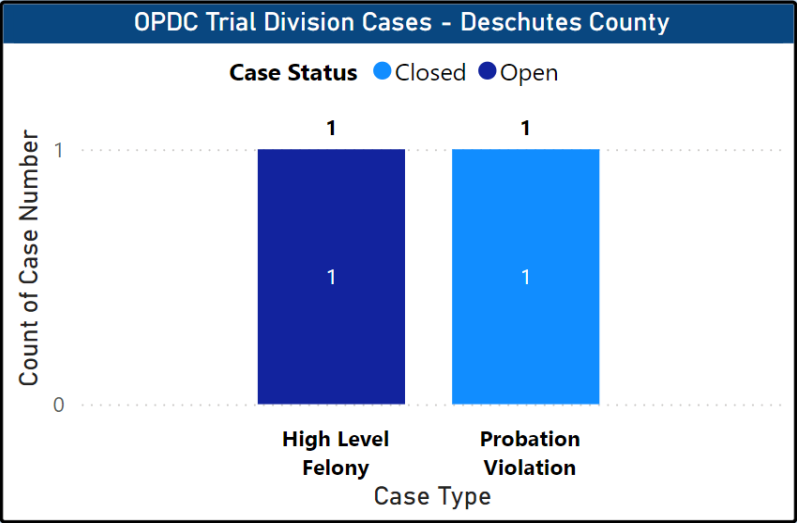


THIP Caseload (thru 10/21/24)		
Case County	Client Count	Case Count
Marion	316	440
Civil Commitment	1	1
Delinquency	4	3
Jessica Law	5	5
Major Felony	21	23
Measure 11	54	54
Minor Felony	99	119
Misdemeanor	70	83
Murder	13	13
PCR/Habeas	19	19
Probation Violations-Criminal	96	123
Total	316	440

Source: OJD OPDS Unrepresented Power BI Dashboard

# Deschutes

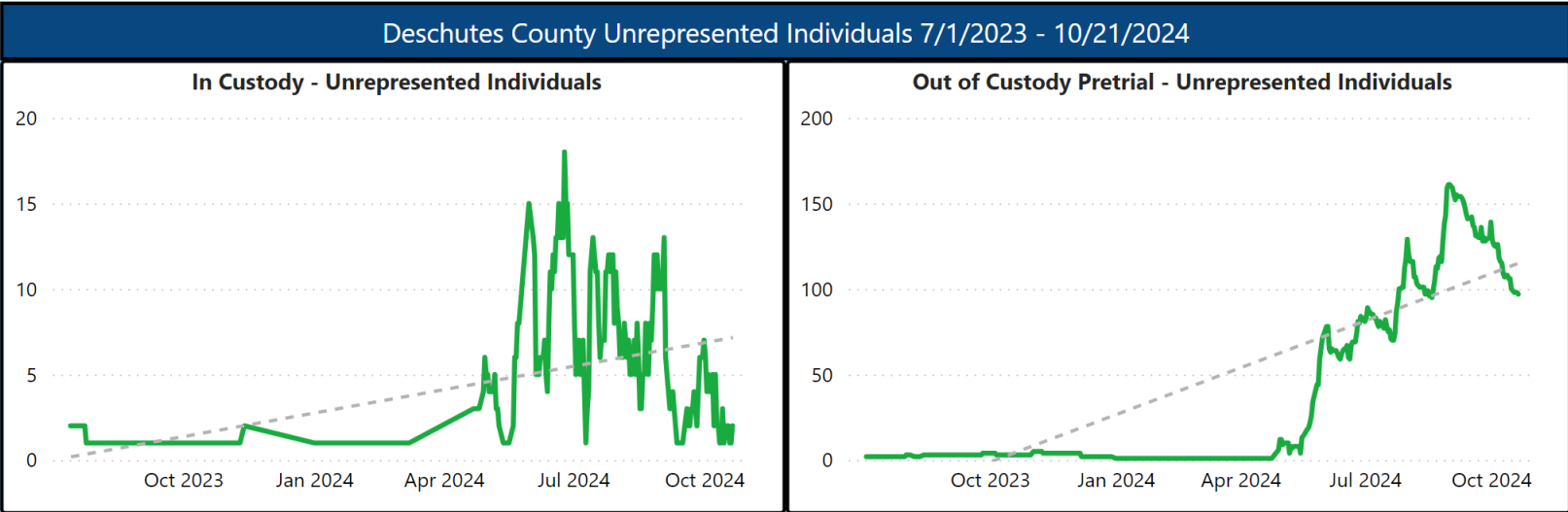
Criminal MAC Utilization			
OPDC Contract Data (July 2023 - September 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
Deschutes	24.3	25.7	94.5%
Consortium	6.3	6.2	100.7%
Firm	4.7	4.6	102.4%
PD	13.3	14.9	89.5%
Total	24.3	25.7	94.5%



Thru 10/21/24

Contract Attorney Retention: July 2023 - October 2024					
HomeCounty	New Attys	Departed Attys	Now State Trial	Now Hourly	Left Public Defense
Deschutes	11	13		1	12
Attorney 4	3	4			4
Attorney 3		5		1	4
Attorney 2	1	3			3
Attorney 1	7	2			2
Total	11	13		1	12

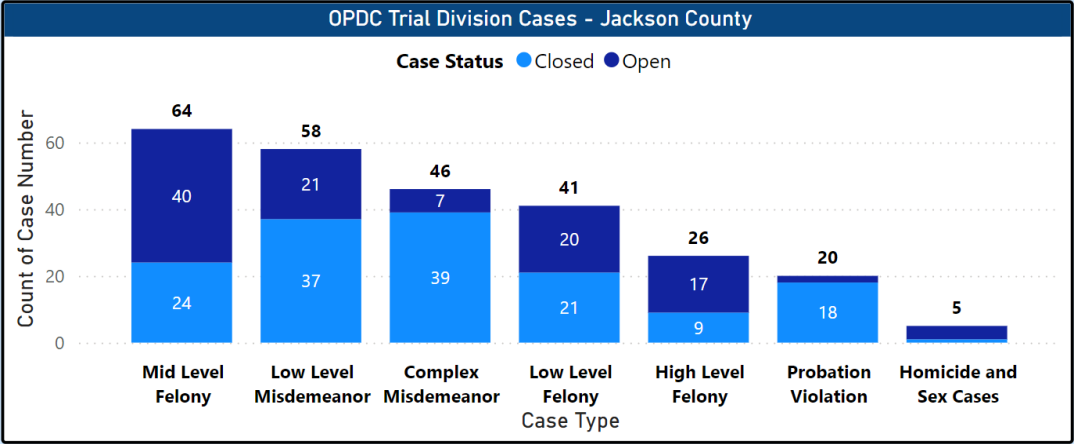
THIP Caseload (thru 10/21/24)		
Case County	Client Count	Case Count
Deschutes	102	134
Delinquency	2	2
Dependency/Termination	14	14
Jessica Law	4	4
Major Felony	10	10
Measure 11	8	8
Minor Felony	17	17
Misdemeanor	44	54
Murder	6	6
Probation Violations-Criminal	16	19
Total	102	134



Source: OJD OPDS Unrepresented Power BI Dashboard

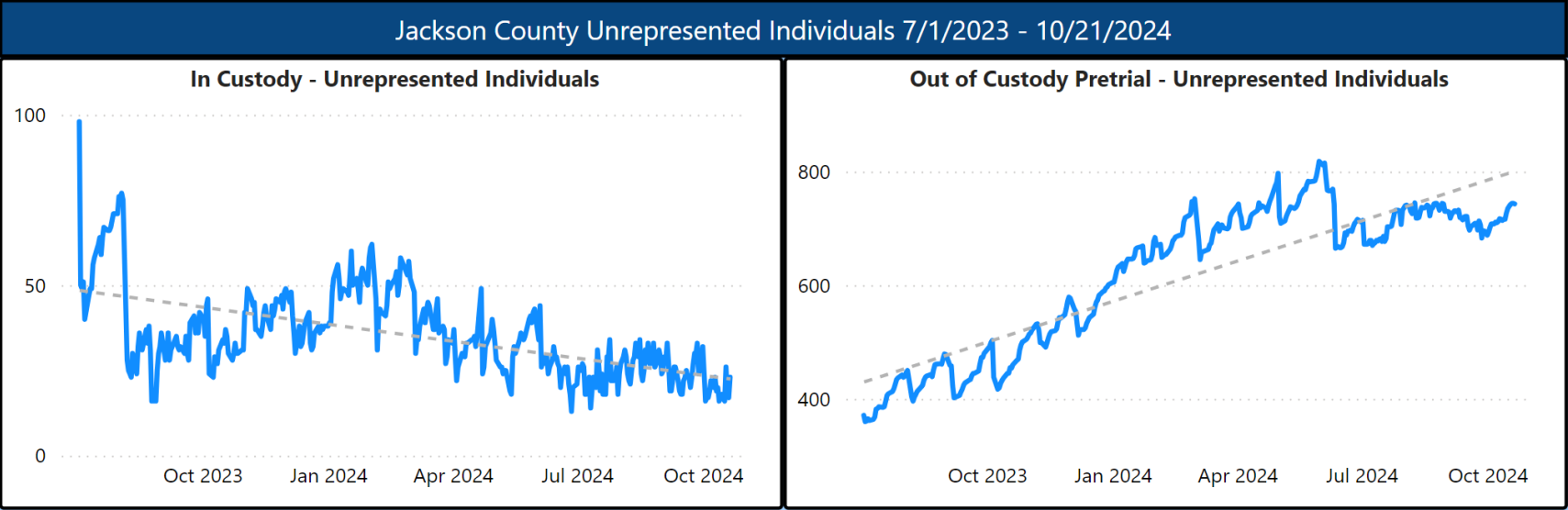


Criminal MAC Utilization			
OPDC Contract Data (July 2023 - September 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
<input checked="" type="checkbox"/> Jackson	25.2	28.0	90.0%
<input checked="" type="checkbox"/> Consortium	13.3	14.5	91.5%
<input checked="" type="checkbox"/> PD	11.8	13.3	88.6%
<input checked="" type="checkbox"/> Sole Proprietorship	0.2	0.2	82.4%
Total	25.2	28.0	90.0%



Thru 10/21/24

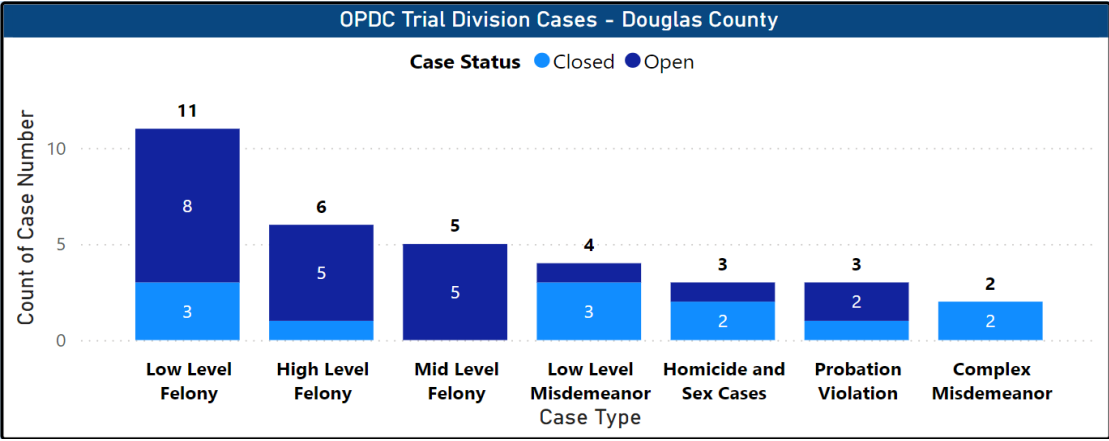
Contract Attorney Retention: July 2023 - October 2024					
HomeCounty	New Attys	Departed Attys	Now State Trial	Now Hourly	Left Public Defense
<input checked="" type="checkbox"/> Jackson	9	8	2		6
<input checked="" type="checkbox"/> Attorney 4		4	2		2
<input checked="" type="checkbox"/> Attorney 3	4	2			2
<input checked="" type="checkbox"/> Attorney 2	2	2			2
<input checked="" type="checkbox"/> Attorney 1	3				
Total	9	8	2		6



THIP Caseload (thru 10/21/24)		
Case County	Client Count	Case Count
<input checked="" type="checkbox"/> Jackson	289	399
Civil Commitment	44	44
Delinquency	12	15
Dependency/Termination	72	80
Jessica Law	2	2
Major Felony	18	23
Measure 11	13	14
Minor Felony	60	82
Misdemeanor	85	113
Murder	5	5
Other	2	2
Probation Violations-Criminal	17	19
Total	289	399

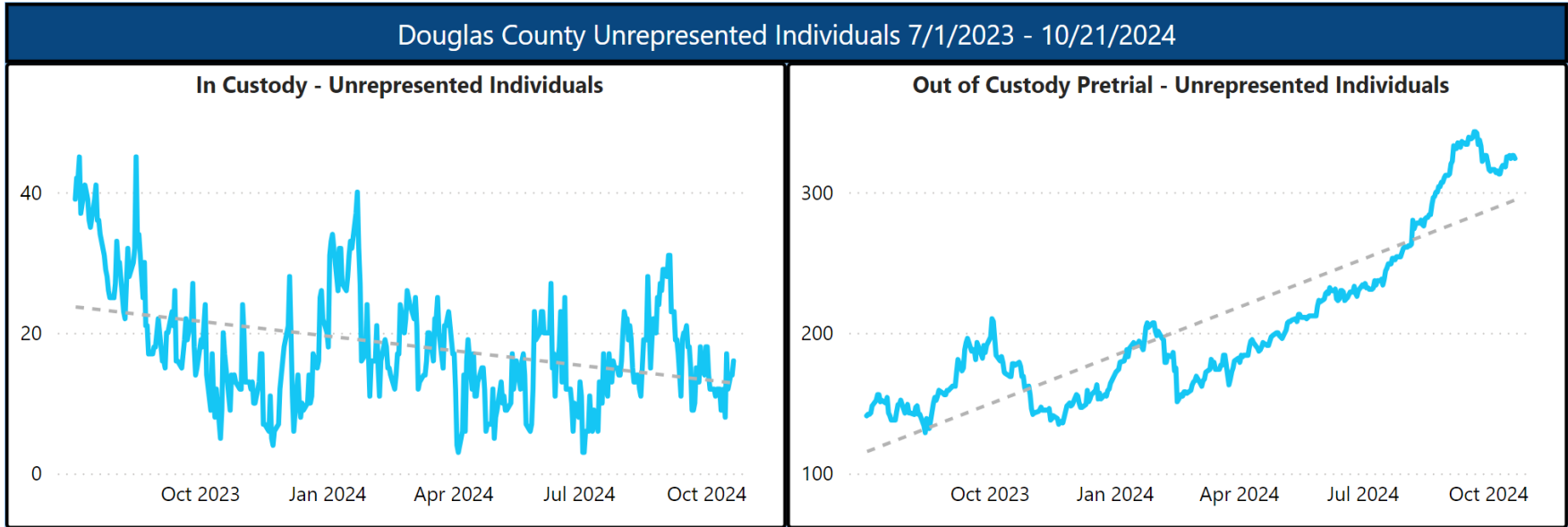
Source: OJD OPDS Unrepresented Power BI Dashboard

Criminal MAC Utilization			
OPDC Contract Data (July 2023 - September 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
⊞ Douglas	10.1	12.4	82.1%
⊞ Consortium	1.8	2.1	85.0%
⊞ Firm	1.9	1.8	111.0%
⊞ PD	4.8	6.5	73.1%
⊞ Sole Proprietorship	1.7	2.0	83.2%
Total	10.1	12.4	82.1%



Thru 10/21/24

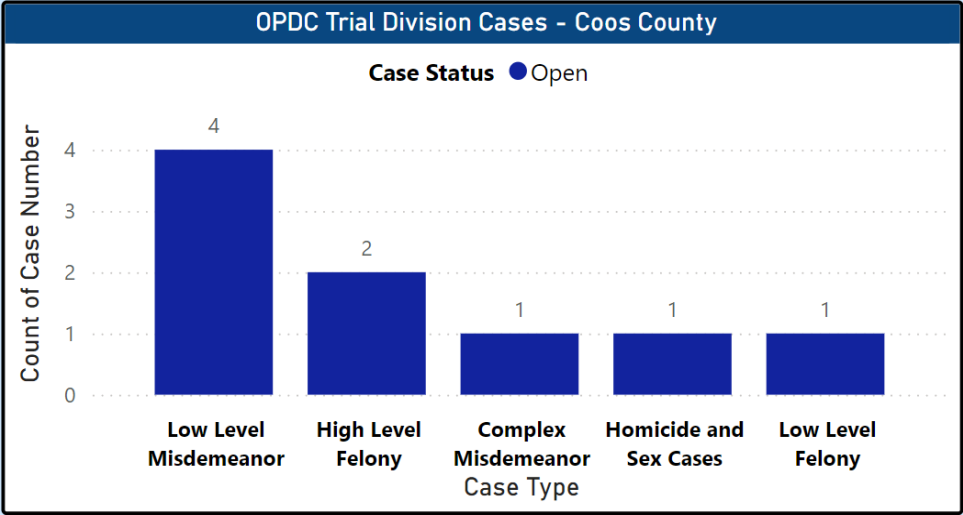
Contract Attorney Retention: July 2023 - October 2024					
HomeCounty	New Attys	Departed Attys	Now State Trial	Now Hourly	Left Public Defense
⊞ Douglas	4	3		3	0
⊞ Attorney 4		1		1	0
⊞ Attorney 3	2	1		1	0
⊞ Attorney 2	1	1		1	0
⊞ Attorney 1	1				
Total	4	3		3	0



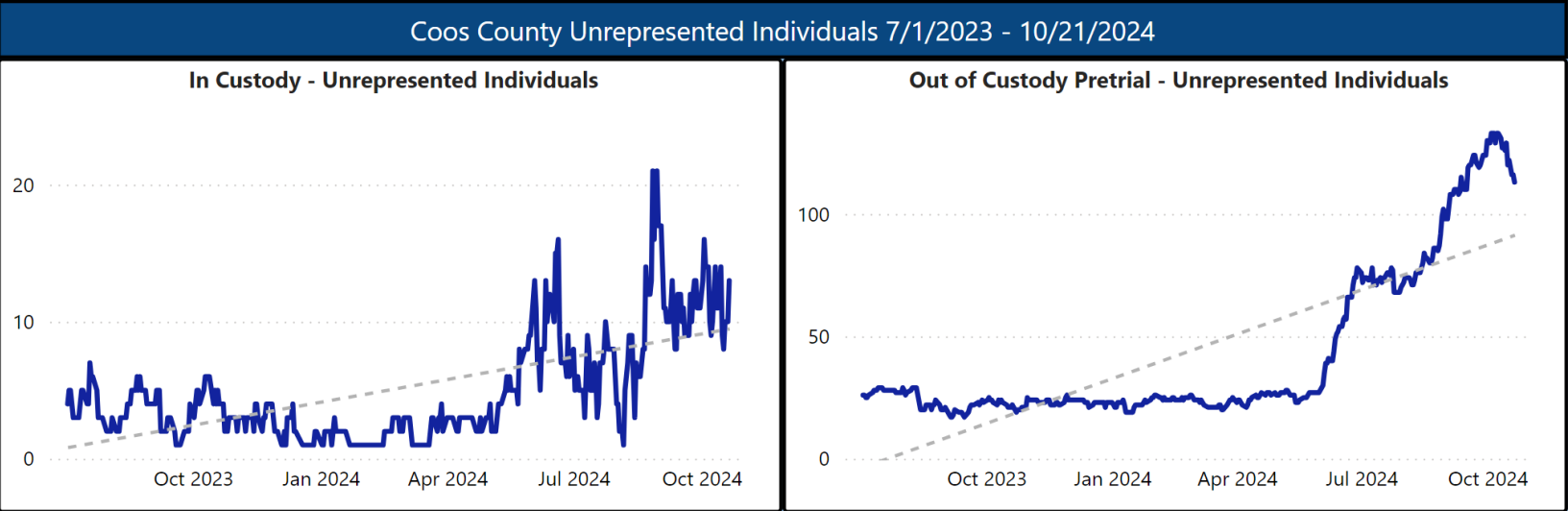
THIP Caseload (thru 10/21/24)		
Case County	Client Count	Case Count
⊞ Douglas	299	460
Dependency/Termination	8	7
Jessica Law	3	3
Major Felony	35	40
Measure 11	28	30
Minor Felony	135	173
Misdemeanor	123	180
Murder	9	10
Probation Violations-Criminal	18	25
Total	299	460

Source: OJD OPDS Unrepresented Power BI Dashboard

Criminal MAC Utilization			
OPDC Contract Data (July 2023 - September 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
Coos	7.5	7.2	103.0%
PD	7.5	7.2	103.0%
Total	7.5	7.2	103.0%



Thru 10/21/24



Contract Attorney Retention: July 2023 - October 2024					
HomeCounty	New Attys	Departed Attys	Now State Trial	Now Hourly	Left Public Defense
Coos		4		3	1
Attorney 4		1		1	0
Attorney 3		1			1
Attorney 2		2		2	0
Total		4		3	1

THIP Caseload (thru 10/21/24)		
Case County	Client Count	Case Count
Coos	256	350
Civil Commitment	14	15
Dependency/Termination	2	2
Jessica Law	6	6
Major Felony	39	38
Measure 11	31	31
Minor Felony	80	99
Misdemeanor	97	140
Murder	7	7
Probation Violations-Criminal	12	15
Total	256	350

Source: OJD OPDS Unrepresented Power BI Dashboard

# Thank you





**Date:** November 13, 2024

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

**From:** Jessica Kampfe, Executive Director

**Re:** Comprehensive Public Defense Report

**Nature of Presentation:** Action Item

**Background:**

Section 98 of SB 337 (2023) states:

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

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

(2) No later than December 1, 2025, and no later than December 1, 2026, the Commission shall provide the interim committees of the Legislative Assembly

related to the judiciary with an updated version of the report described in subsection (1) of this section.

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

Although not required by SB 337, OPDC is providing this supplemental report to keep the legislature apprised of the above benchmarks, and it includes updates since the April 30, 2024 report ("Report 1") was submitted to the legislature.

**Agency Recommendation:**

OPDC staff is recommending the Commission approve the Comprehensive Public Defense Report (Report 2) for submission to the legislature.

**Fiscal Impact:**

None.

**Agency Proposed Motion:**

I move the Commission to approve the agency's Comprehensive Public Defense Report (Report 2) for submission to the legislature.

# Oregon Public Defense Commission

---

COMPREHENSIVE PUBLIC DEFENSE REPORT

Report II (DRAFT)  
November 30, 2024

## NATURE OF THE REPORT

Section 98 of SB 337 (2023) states:

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

- (a) Financial projections for the Commission based on anticipated workload;
  - (b) A description of the Commission's proposed method for providing public defense services based on anticipated workload;
  - (c) The establishment of training and supervision requirements for public defense providers;
  - (d) Steps taken to determine a reasonable hourly rate for appointed counsel who are not employees of the Commission or nonprofit public defense organizations that accounts for overhead expenses; and
  - (e) Steps taken to improve oversight and enforcement of statewide objective standards for the provision of public defense.
- (2) No later than December 1, 2025, and no later than December 1, 2026, the Commission shall provide the interim committees of the Legislative Assembly related to the judiciary with an updated version of the report described in subsection (1) of this section.
- (3) Beginning no later than December 1, 2027, and biennially thereafter until December 1, 2035, the Commission shall provide the interim committees of the Legislative Assembly related to the judiciary with an updated version of the report described in subsection (1) of this section.

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

Although not required by SB 337, OPDC is providing this supplemental report to keep the legislature apprised of the above benchmarks, and it includes updates since the April 30, 2024 report ("Report 1") was submitted to the legislature. The Oregon Public Defense Commission members approved this report at their November 13, 2024 meeting.



## CONTENTS

Nature of the Report.....	
Foundational Reports, Standards, and Documents .....	
Executive Summary .....	1
Service Delivery – Standard Setting and the Workforce .....	1
Service Delivery – Transition of the Workforce .....	2
Service Delivery – Standard Setting and the Workforce .....	5
Caseload Forecast.....	5
Caseload And Workload Standards.....	6
Core Staff Ratios .....	8
Compensation.....	9
Financial Considerations of Workload Plan.....	11
Service Delivery – Transition of Workforce.....	13
State Employees .....	13
Non-Profit Public Defender Offices .....	14
(Private Bar) Consortia, Law Firms, And Solo Practitioners .....	14
Panel of Qualified Counsel.....	15
Administration, Training, Supervision, and Oversight .....	15
Future Reporting .....	18

## FOUNDATIONAL REPORTS, STANDARDS, AND DOCUMENTS

The below reports, standards, and documents are referenced throughout this report and are the foundation of the agency's efforts to meet the service delivery mandates of ORS 151.216 – (1) the use of data and standards to implement a statewide workload plan and (2) the transition of the service delivery model. Each contains a link to an online version of the document.

American Bar Association Ten Principles of a Public Defense Delivery System (November 2023)

National Public Defense Workload Study (July 2023)

The Oregon Project (January 2022)

National Association for Public Defense Policy State on Public Defense Staffing (May 2020)

Moss Adams Hourly Rate and Economic Survey (May 2024)

DAS/OEA Public Defense Caseload Forecast (October 2024)

Six-Year Plan to Reduce the Representation Deficiency (October 2024)

Oregon Public Defense Commission '25-'27 Agency Request Budget (August 2024)

Senate Bill 337 (2023)

## EXECUTIVE SUMMARY

SB 337 (2023) provides a framework for restructuring the provision of public defense services in Oregon. This report focuses on two high-level service delivery mandates of that legislation – (1) the use of data and standards to implement a statewide workload plan and (2) the transition of the service delivery model. The Oregon Public Defense Commission (OPDC) is required to create and adopt rules, policies, and procedures to implement the goals mandated by SB 337. This is the Commission’s second report on its plan to provide comprehensive public defense services in Oregon, and it contains updated information since the initial report was submitted to the legislature on April 30, 2024.

---

### SERVICE DELIVERY – STANDARD SETTING AND THE WORKFORCE

In Report 1, the agency identified three sets of data and standards that inform the agency’s public defense workload. Since then, the agency has taken steps on a fourth data point. Those data points are:

- The Public Defense Forecast (How many cases are projected);
- Caseload and Workload Standards (How many attorney hours are needed per case);
- Core Staff Ratios (Which, and how many, non-attorney staff are needed to aid the attorney work)
- Compensation (What is the appropriate compensation for attorney and non-attorney work).

With this data, the state can quantify the number of public defense lawyers needed to represent all persons who qualify for a court-appointed attorney, and to do so within constitutionally mandated caseloads. It can quantify the number of non-attorney staff (e.g., legal assistants, investigators, social workers, and administrative support). And it can estimate the financial costs of providing these services.

The Oregon Public Defense Commission (OPDC) understands that the necessary investments to implement this workload plan will take time. In 2023, the OPDC hired Moss Adams to develop a Six-Year Plan to Reduce Representation Deficiency in criminal cases (Six-Year Plan) to help address this issue. Since Report 1, the Commission has taken several major steps toward building a public defense workload model based upon the data points above:

- The Commission adopted caseload standards, relying upon the National Public Defense Workload Standards (NPDWS) for criminal cases, and caseload standards from The Oregon Project for juvenile dependency and delinquency cases.
- The Commission adopted a workload standard of 1,578 hours of case specific work per full-time attorney per year.

- The Commission adopted core staff ratios based upon public defense best practices as recommended by the National Association of Public Defenders.
- The Commission received an Hourly Rate and Economic Survey, which makes compensation recommendations for public defense attorneys and core staff.
- The Commission adopted a Six-Year Plan, which aims to reduce representation deficiency in criminal cases.
- The Commission approved its Agency Requested Budget (ARB), which includes Policy Option Packages (POPs) that advance the first two years of the Six-Year Plan, including the Commission's directives on caseload and workload standards, core staff ratios, and compensation.

A key directive for this report is for OPDC to provide “financial projections for the Commission based on anticipated workload.” Those projections are best viewed through the ARB, as that request is based upon Commission decisions regarding caseload and workload standards, core staff ratios, and compensation. Here is a timeline of the steps taken by the Commission since Report 1 to establish OPDC's ARB.

Month/Meeting	Action Item
March Commission Meeting	<ul style="list-style-type: none"> <li>• Briefing on Six-Year Plan</li> <li>• Briefing on caseload and workload standards</li> </ul>
April	<ul style="list-style-type: none"> <li>• OEA releases public defense forecast</li> <li>• Hourly Rate and Economic Survey completed</li> </ul>
May Commission Meeting	<ul style="list-style-type: none"> <li>• Briefing on Hourly Rate and Economic Survey</li> <li>• Approval of compensation formula</li> <li>• Approval of caseload and workload standards</li> </ul>
June Commission Meeting	<ul style="list-style-type: none"> <li>• Approve POP concepts, informed by adopted caseload and workload standards, the Hourly Rate and Economic Survey, and adopted core staff ratios.</li> </ul>
July Commission Meeting	<ul style="list-style-type: none"> <li>• Approve POP narratives</li> </ul>
August Commission Meeting	<ul style="list-style-type: none"> <li>• Approve ARB</li> </ul>

POPs 102, 103, 104, and 105 include requests to implement OPDC's workload plan for the '25-'27 biennium. The foundation for these financial requests is the Commission's decisions regarding caseload and workload standards, core staff ratios, and compensation. The total budget request for these POPs is \$683,993,693.

---

#### SERVICE DELIVERY – TRANSITION OF THE WORKFORCE

In addition to using data and standards to implement a statewide workload plan, the Commission must also transition its workforce toward a new service delivery model. Currently, OPDC contracts with non-profit public defender offices, consortia, law firms, and individual attorneys.

The contracts reimburse the various entity types with a fixed fee per month to cover a maximum attorney caseload (MAC), or a portion thereof.

SB 337 made several changes to the public defense workforce:

- Effective July 13, 2023, OPDC was directed to create a Trial Division that include state employees as full-time public defenders. Additionally, there were new obligations place on OPDC regarding administration, standard setting, training, and oversight of the workforce.
- Effective July 1, 2025, flat fee contracting is prohibited. Public defense services will be provided by OPDC Trial Division, non-profit public defender offices pursuant to workload contracts, private bar attorneys pursuant to workload contracts, and a panel of qualified counsel who are paid an hourly rate for their legal services.
- Effective July 1, 2027, the private bar will be transitioned to the panel of qualified counsel. Public defense providers in Oregon will be either state employees, employees at a non-profit public defender office, or attorneys who are paid hourly as part of a panel of qualified counsel.
- Effective January 1, 2031, at least 20% of the public defense attorney workforce shall be employees of the OPDC Trial Division.
- Effective January 1, 2035, at least 30% of the public defense attorney workforce shall be employees of the OPDC Trial Division.

OPDC has begun the transition to state employee public defenders. Three regional trial division offices have opened – a Northwest Regional Office, a Southern Regional Office, and a Central Valley Regional Office. These offices and others will grow significantly in the coming years, as SB 337 requires state-employed public defense attorneys to constitute at least 20% of the public defense workforce by 2031 and at least 30% by 2035.

Since Report 1, OPDC has begun the foundational work to create the panel of qualified counsel and establish policies regarding administration, standards, training, and oversight for all public defenders. This work includes the following:

- Updated qualification standards for public defense providers.
- Updated performance standards for public defense providers.
- Policies and procedures for an online billing system, which will be used by the panel of qualified counsel and other private vendors.
- Policies and procedures for the independent assignment of counsel by OPDC.
- Updated policies and procedures regarding complaints and investigations of public defense providers.

- Policies and procedures for performance assessments of public defense providers.
- Policies and procedures for reevaluation of attorney qualifications.
- Policies and procedures for financial audit of public defense providers.
- Creation of local supervising attorney program.
- Creation of mentoring program.
- Creation of training program.
- Creation of awards program.

OPDC is currently receiving technical assistance from the Sixth Amendment Center, with project management assistance from Moss Adams. The policies and procedures for the service delivery transition work will be complete by July 2025, although some components are ongoing and will continue past July. This report will provide updates on all these efforts.

## SERVICE DELIVERY – STANDARD SETTING AND THE WORKFORCE

Four variables inform OPDC’s efforts to both build and implement a statewide workload plan, as required by ORS 151.216. With this data, the state can quantify the number of public defense lawyers needed to represent all persons who qualify for a court-appointed attorney, and to do so within constitutionally mandated caseloads. It can quantify the number of non-attorney staff (e.g., legal assistants, investigators, social workers, and administrative support). And it can estimate the financial costs of providing these services. Those variables include:

- The Public Defense Caseload Forecast (How many cases are projected).
- Caseload and Workload Standards (How many attorney hours are needed per case).
- Core Staff Ratios (Which, and how many, non-attorney staff are needed to aid the attorney work).
- Compensation (What is the appropriate compensation for attorney and non-attorney work).

Below is a breakdown of how OPDC has set standards for these variables. These variables all inform OPDC’s financial projections regarding the costs of its anticipated workload.

### CASELOAD FORECAST

SB 337 requires the Oregon Department of Administrative Services Office of Economic Analysis (OEA) to issue a state public defense population forecast, including, but not limited to, expected populations of adults and juveniles eligible for appointed counsel. OEA will release the forecasts annually on April 15 and October 15.

OPDC signed an interagency agreement with OEA in late 2023 for this work. OPDC, OEA, and the Oregon Judicial Department (OJD) have met several times to review existing forecast methodology, data inputs, and how the forecast feeds into contracting and budgeting. OEA released the first [forecast](#) on April 15, 2024 and its most recent [forecast](#) on October 15, 2024.

The forecast is comprised of 13 case types. Of note, the forecast is currently projecting a 22.4% increase in criminal cases for the ’25-’27 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.

As the October forecast noted, there is no official advisory committee for the forecast, although work is in progress to create one. Partnering agencies continue to work with and learn from each other, with the expectation that the forecast will become more precise over each iteration. The next forecast will be published on April 15, 2025.

## Public Defense Forecast - Biennial Summary

(October 2024 forecast)

	Biennium		Change	Percent
	2023-25	2025-27		
Felony	40,754	44,182	3,428	8.4%
Misdemeanors	73,288	98,486	25,198	34.4%
Treatment Court	1,658	1,677	19	1.2%
Probation Violation	28,141	33,257	5,116	18.2%
Appellate	2,864	2,868	3	0.1%
Post-Conviction Relief	853	866	13	1.6%
Habeas Corpus	234	284	49	21.0%
Civil Commitment	4,148	4,338	189	4.6%
<b>TOTAL</b>	<b>151,941</b>	<b>185,957</b>	<b>34,017</b>	<b>22.4%</b>

	Biennium		Change	Percent
	2023-25	2025-27		
Dependency*	15,786	15,741	-45	-0.3%
Delinquency**	6,396	6,696	299	4.7%
Probation Violation	3,889	3,945	56	1.4%
Appellate	587	595	8	1.3%
Treatment Court	289	310	21	7.2%
<b>TOTAL</b>	<b>26,948</b>	<b>27,287</b>	<b>339</b>	<b>1.3%</b>

\* Includes Parents and Guardians.

\*\* Includes Measure 11, Murder, and All Other

### CASELOAD AND WORKLOAD STANDARDS

ORS 151.216 provides several mandates to OPDC regarding attorney caseload and workload. Specifically, the Commission is required to:

- Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution, and national standards of justice.
- Adopt policies for public defense providers that ensure caseloads are in accordance with national and regional best practices.

In November 2023, the ABA published an update to its “Ten Principles of a Public Defense Delivery System,” which is the most comprehensive public defense best practice when looking to “national standards of justice.” Principle 3, “Control of Workloads,” provides:

- The workloads of Public Defense Providers should be regularly monitored and controlled to ensure effective and competent representation. Workloads should never be so large as to interfere with the rendering of quality representation or to lead to the breach of ethical obligations.



- Workload standards should ensure compliance with recognized practice and ethical standards and should be derived from a reliable data-based methodology.
- Jurisdiction-specific workload standards may be employed when developed appropriately, but national workload standards should never be exceeded.

ORS 151.216 provides additional mandates to the Commission regarding attorney caseload and workload:

- Review the caseload policies and revise the policies as necessary and at least every four years.
- Adopt a statewide workload plan based upon the agency's caseload policies.
- Develop, adopt, and oversee the implementation, enforcement, and modification of policies, procedures, minimum standards, and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state.
- Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meeting with clients.
- The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The Commission may develop workload controls to enhance appointed counsel's ability to provide effective representation.

In response to these obligations, the Commission considered attorney caseload and workload standards at meetings in March through May 2024. Specifically, the Commission considered the caseload standards from The Oregon Project and the National Public Defense Workload Study (NPDWS).

The Oregon Project, *An Analysis of Public Defense Attorney Workloads* was published in January 2022 and was produced by the American Bar Association Standing Committee on Legal Aid and Indigent Defense (ABA SCLAID) and the Seattle-based accounting and consulting firm Moss Adams. The NPDWS was produced by the RAND Corporation, ABA SCLAID, the National Center for State Courts, and attorney Stephen Hanlon in September 2023. The NPDWS standards are the culmination of a comprehensive review and analysis of 17 previously released state-level studies, many of which the ABA conducted.

Both reports include recommended caseload and workload standards to ensure attorneys have sufficient time to provide their assigned clients with reasonably effective assistance of counsel

“pursuant to prevailing professional norms.”<sup>1</sup>

On May 8, 2024, the Commission voted to adopt the NPDWS caseload standards for criminal cases, and The Oregon Project caseload standards for juvenile delinquency and dependency cases. The Commission also established an annual workload of 1,578 case specific hours per year for full-time public defense attorneys.<sup>2</sup> Rather than implement these standards immediately, the Commission elected to phase in the caseload and workload standards over 6 years (3 budget biennia), beginning July 1, 2025 with full implementation by July 1, 2030.<sup>3</sup>

The following chart demonstrates the number of attorney FTE required to meet the Commission’s caseload and workload standards for legal representation in criminal cases.

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

To fully implement the caseload and workload standards for criminal cases, OPDC will need to add 474 attorneys to the workforce, which is approximately 79 attorneys per year for six years. To fully implement the caseload and workload standards for juvenile cases, OPDC will need to add 302 attorneys to the workforce, which is approximately 50 attorney per year for six years.

#### CORE STAFF RATIOS

ORS 151.216 requires OPDC to ensure public defense resources are in accordance with national and regional best practices. In order to be properly resourced, a public defense workforce

<sup>1</sup> In Strickland v. Washington, 466 US 668 (1984), the United States Supreme Court established this standard as the measure of whether a person receives legal counsel consistent with the mandate of the Sixth Amendment.

<sup>2</sup> This is consistent with the number of billable hours per year for full-time attorneys at the Oregon Department of Justice.

<sup>3</sup> On March 14, 2024, the Washington State Bar Board of Governors also adopted the NPDWS caseload standards for public defense cases but chose to phase in those standards over a three-year period, with full implementation by July 1, 2027. The Washington Supreme Court is currently reviewing this rule.

requires sufficient core staff to assist and enhance the work of the attorneys. Oregon's public defense workforce lacks sufficient core staff, as the agency has not, until recently, invested in its development.

To build out this workforce, OPDC is relying upon staffing ratios recommended by the National Association for Public Defense:

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

These ratios inform OPDC's budget requests for the non-profit public defender offices it contracts with, as well as its own Trial Division offices. The ratios also inform the number of private vendors the agency should anticipate funding through the preauthorized expense program that private bar and panel attorneys access to secure non-attorney services.

## COMPENSATION

ORS 151.216 provides several mandates to OPDC regarding the compensation of all public defense providers:

- Ensure compensation is in accordance with national and regional best practices.
- Ensure funding and resources to support required data collection and training requirements.
- Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.
- Adopt a compensation plan this is commensurate with other state agencies.

Additionally, SB 337 directed OPDC to conduct a survey and economic analysis by July 1, 2025 to establish a formula for the commission to use to calculate an hourly pay rate for the panel of qualified counsel, taking into account overhead expenses, market rates and regional differences in the cost of living. OPDC contracted with Moss Adams to conduct the survey and economic analysis, which was completed in April 2024. SB 337 also states:

- Once the hourly pay rate has been established, and beginning with contracts entered into

on or after July 1, 2027, the hourly pay for the panel of qualified counsel may not be lower than that amount.

- The hourly rate may not be lower than the hourly rate established by the Commission.
- The hourly rate shall be adjusted to reflect the same percentage amount of any positive cost of living adjustment granted to employees in the management service in other executive branch agencies.
- The hourly rate may not provide a financial conflict of interest or economic incentives or disincentives that impair an attorney's ability to provide effective representation.

Taken together, these directives inform the Commission's approach to the compensation of public defense providers. For attorneys and core support staff in the Trial Division, OPDC has tethered its compensation plan to staff at the Oregon Department of Justice.

For the panel of qualified counsel, the Commission has relied upon the Hourly Rate and Economic Survey to inform its recommendation on compensation. The Commission adopted the following formula to inform its decision on hourly rates for panel attorneys:



Using this formula, the Commission considered data from the market survey to determine whether OPDC should use a strategy that lags the market (25%), matches the market (50%), or leads the market (75%).

FORMULA COMPONENT	25TH	50TH	75TH
Average Hourly Salary (Oregon)	\$67	\$84	\$95
Payroll Taxes (10.35%)	\$7	\$9	\$10
Cost of Benefits (30%)	\$20	\$25	\$29
<b>Total Employee Cost:</b>	<b>\$94</b>	<b>\$118</b>	<b>\$134</b>
Overhead (40%)	\$38	\$47	\$54
Profit (10%)	\$13	\$17	\$19
<b>Market Calculated Rate:</b>	<b>\$145</b>	<b>\$182</b>	<b>\$207</b>

*All figures are rounded to the nearest whole dollar.*

Market data was also gathered for core staff positions:

POSITION	25TH	50TH	75TH
Paralegal / Legal Assistant	\$54	\$65	\$70
Investigator	\$61	\$74	\$82
Legal Secretary	\$44	\$54	\$57
Interpreter	\$43	\$50	\$56
Interpreter - Sign Language	\$52	\$63	\$67
Case Manager	\$67	\$78	\$83
Social Worker	\$61	\$69	\$74
Administrative Specialist	\$39	\$48	\$52

The Commission selected the market match approach, and it directed OPDC to use the hourly rate from the 50<sup>th</sup> percentile for panel attorneys and core staff, adjusted for 1,578 billable hours per year, rather than 2,080 billable hours. Using this approach, the Commission established a two-tier hourly rate structure of \$205 and \$230 per hour, depending upon the case type. The Commission also relied upon this formula for establishing compensation for attorneys and core staff for other public defense contractors, such as non-profit public defender offices, consortia, law firms, and solo practitioners.

#### FINANCIAL CONSIDERATIONS OF WORKLOAD PLAN

There are short-term and long-term impacts to implementing the agency's workload plan. The financial impact would be significant if OPDC attempted to implement this plan immediately. However, the Commission aims to implement the caseload and workload standards over a six-year period.

The short-term impacts are best understood through the ARB. The agency's POPs have been crafted in reliance upon Commission decisions regarding caseload and workload standards, core staff ratios, and compensation. The agency is proposing to implement the decisions regarding core staff ratios, compensation, and one-third of the caseload and workload standards in the '25-'27 biennium. The agency will then implement the remainder of the caseload and workload standards during the '27-'29 and '29-'31 biennia.

POPs 102, 103, 104, and 105 include requests to implement OPDC's workload plan for the '25-'27 biennium. The foundation for these financial requests is the Commission's decisions regarding caseload and workload standards, core staff ratios, and compensation.

The total costs of POPs 102 through 105 are:

Policy Option Package		Cost Above Agency Current Service Level
102	Criminal Contracts	\$446,303,164
103	Trial Division Build	\$21,863,302
104	Hourly Rates	\$38,919,169
105	Juvenile Contracts	\$176,908,058
Total		\$683,993,693

Long term, the agency's Six-Year Plan provides tools to forecast budget growth as caseload and workload standards are fully implemented. To fully implement the caseload and workload standards for criminal cases, OPDC will need to add 474 attorneys to the workforce, which is approximately 79 attorneys per year for six years. To fully implement the caseload and workload standards for juvenile cases, OPDC will need to add 302 attorneys to the workforce, which is approximately 50 attorney per year for six years. Corresponding core staff will also need to be added to the workforce.

## SERVICE DELIVERY – TRANSITION OF WORKFORCE

Currently, OPDC's public defense attorney workforce consists of the following:

- OPDC Trial Division (20 FTE Attorney),
- Non-profit public defender offices, pursuant to maximum attorney caseload (MAC) contracts (279 FTE Attorney),
- Private bar attorneys (consortia and law firms) pursuant to MAC contracts (410 FTE Attorney),
- Attorneys who are paid an hourly rate pursuant to accept appointments to cases.

SB 337 requires this workforce be transitioned over a period of time:

- Effective July 1, 2025, flat fee contracting is prohibited. Public defense services will be provided by OPDC Trial Division, non-profit public defender offices pursuant to workload contracts, private bar attorneys pursuant to workload contracts, and a panel of qualified counsel who are paid an hourly rate for their legal services.
- Effective July 1, 2027, the private bar will be transitioned to the panel of qualified counsel.
- Effective January 1, 2031, at least 20% of the public defense attorney workforce shall be employees of the OPDC Trial Division.
- Effective January 1, 2035, at least 30% of the public defense attorney workforce shall be employees of the OPDC Trial Division.

The sections below include summaries of where each component of that transition currently exists, and the steps taken toward ensuring compliance with SB 337.

---

### STATE EMPLOYEES

In 2023, Oregon's public defense system was authorized to employ trial attorneys for the first time. OPDC has 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 it prioritizes appointments to cases from the Oregon Judicial Department's unrepresented list. In its ARB, OPDC is requesting to grow the Trial Division to a total of 111 positions, including 60 attorneys, during the next biennium, as it 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 and 2035 timelines.

---

#### NON-PROFIT PUBLIC DEFENDER OFFICES

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. Current contracts with non-profit public defender offices include:

- Metropolitan Public Defender (Washington and Multnomah)
- Multnomah Defenders, Inc.
- Youth, Rights, & Justice (Multnomah)
- Public Defender of Marion County
- Public Defender Services of Lane County
- Umpqua Valley Public Defender (Douglas)
- Southern Oregon Public Defender, Inc. (Josephine and Jackson)
- Southwest Oregon Public Defender Services, Inc. (Coos)
- Deschutes Defenders
- Intermountain Public Defender, Inc. (Umatilla and Morrow)
- Columbia Gorge Defenders (Hood River, Gilliam, Wheeler, Sherman, and Wasco)
- Elkhorn Defenders (Baker and Malheur)

Currently, the agency funds 279 attorney FTE in these offices. In its ARB, the agency is requesting additional funding to increase attorney capacity for these offices.

Similar to state offices, non-profit public defender offices often have a supervision structure, core support staff, and policies regarding training. However, OPDC has not provided a funding structure to encourage or support those functions. In its ARB, the agency is requesting funding to non-profit public defender offices invest in those critical functions.

---

#### (PRIVATE BAR) CONSORTIA, LAW FIRMS, AND SOLO PRACTITIONERS

OPDC currently contracts with many private bar attorneys to provide public defense services. Some of these attorneys subcontract with a consortium, while others have their own law firm or are employed by a law firm. These providers generally perform legal services outside of their public defense work. Similar to non-profit public defender offices, these entities perform services pursuant to a MAC contract.

Currently, there are 410 attorney FTE 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. However, effective July 1, 2027, OPDC will no longer enter into fixed monthly fee contracts with these entity types. Rather, private bar attorneys will have to apply to the panel of qualified counsel in order to accept appointments to public defense cases, and they will bill the agency directly for their work on an hourly rate basis.

---

## PANEL OF QUALIFIED COUNSEL

Historically, a small percentage of the public defense workload has been performed by non-contract attorneys on an hourly rate basis. That percentage has increased in the past few years, particularly in light of the unrepresented person crisis and an increased hourly rate to serve those individuals.

With the mandates of SB 337, this component to the agency's service delivery model will increase significantly in the next three years. Beginning July 1, 2025, the currently hourly billing component to OPDC's service delivery model will be formalized into a panel of qualified counsel. Attorneys will be evaluated pursuant to qualification standards to determine the cases to which they can receive appointments. Panel attorneys will be supervised by other panel attorneys who have the requisite qualifications, and they will also have access to mentor attorneys. Supervising and mentoring attorneys will work with OPDC staff on supervision and oversight.

Panel attorneys will contract directly with the agency and bill the agency directly for their legal services pursuant to an hourly rate. Critical to the functioning of the panel is an online billing system, which will use billing codes that align with the agency's workload and performance standards. OPDC has released a RFQ for a financial and case management system (FCMS) which, once procured, will be the portal for panel attorney online billing.

The panel will grow significantly by July 1, 2027, as the private bar transitions to the panel of qualified counsel.

## ADMINISTRATION, TRAINING, SUPERVISION, AND OVERSIGHT

The transition of the public defense service delivery model certainly impacts OPDC's business relationships with attorneys and core staff throughout Oregon. It also impacts the overall administration of public defense services, including how attorneys receive appointments to cases, and how public defense providers receive training, supervision, and oversight.

OPDC is currently receiving technical assistance from the Sixth Amendment Center, with project management assistance from Moss Adams, to implement the new service delivery mandates. Most of the service delivery transition work will be complete by July 2025, although some components are ongoing and will continue past July. Prior to July 1, 2025, OPDC will adopt

policies and procedures to implement the following components to the agency's service delivery transition:

Independent Assignment of Counsel: OPDC will develop processes and request resources to assume responsibility for the independent assignment of counsel. Currently, this process is not uniform statewide. OPDC staff, local administrators, and local court staff all participate in case assignment. Centralizing case assignment will allow OPDC to use attorney resources most efficiently. It will also significantly improve our data, as the agency will know in real time which cases attorneys are assigned to, rather relying upon reports submitted to the agency with months old data.

Standard Setting: OPDC will update its attorney qualification standards and performance standards. It will also create training standards that inform attorneys on compliance with the performance standards. The development of these standards will include participation and feedback from public defense providers.

Online Billing System and Audit Processes: OPDC will establish policies and procedures for panel attorneys to bill OPDC through an online portal, which will be implemented with the agency's FCMS procurement. The agency will also create billing codes that align with its workload and performance standards. Online billing will expedite payment to public defense providers. It will also provide the agency with better data, which can be used for both performance assessments and financial audit purposes.

Supervision and Mentoring: OPDC will rely on local attorneys to provide much of the supervision and training required to ensure attorney compliance with performance standards. OPDC will establish qualification standards for attorneys to serve as supervisors and/or mentors. A structured mentor system supports competence and cost-effectiveness through efficiency, as mentors reduce the time assigned counsel spend mastering complex issues. A structured program of local supervision allows local attorney leaders to champion the agency's mission and build support for strong public defense.

Performance Assessments and Reevaluation of Qualifications: Performance standards are a measuring tool for evaluating public defense providers, and performance standards with specific benchmarks can be measured through online billing. OPDC staff will create policies regarding the frequency of performance assessments and the timelines for reevaluating an attorney's qualifications.

Complaints and Investigations: Fair and prompt complaint investigation and resolution reduces bar complaints against attorneys, aids the enforcement of performance standards, and provides vulnerable people a process for redress. OPDC will update its policies and procedures regarding complaints and investigations, and it will do so in conjunction with the buildout of the Compliance, Audit, and Performance Division.

Awards Program: Awards ceremonies articulate the agency's mission and grow the key idea that high quality public defense is something the whole legal community is proud to support. OPDC will work with public defense providers to establish a program for rewarding excellence.

## FUTURE REPORTING

OPDC will provide a third written report to the House and Senate Judiciary Committees by December 1, 2025, with additional information regarding OPDC's implementation of its statewide workload plan and the transition of the public defense workforce. Specifically, OPDC will provide updates on:

- Attorney caseload and workload
- Core staff ratios
- Compensation
- Non-profit public defender offices
- The panel of qualified counsel, including updates on transitioning the private bar to the panel
- The OPDC Trial Division, including the timeline and plan for its expansion by region
- Public defense administration, training, supervision, and oversight

OPDC is also available to provide updates to the House and Senate Committees on the Judiciary during the 2025 legislative session.



**Date:** November 13, 2024

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

**Cc:** Jessica Kampfe, Executive Director

**From:** Laura Sanchez, Human Resources Director

**Re:** Organizational Chart

**Nature of Presentation:** Action Item

**Background:**

Gov. Tina Kotek has requested by Nov. 1, 2024, an organizational chart for the Oregon Public Defense Commission that satisfies legislative requirements. Our human resources department consulted with the Chief Human Resources Office in the Department of Administrative Services (DAS) to create a chart that includes the following:

- the agency's operational structure
- budgetary information for positions
- working titles (where applicable)
- employees' names
- employees' classifications
- job codes for workers
- job codes for positions (to identify under-, cross- and overfills on positions)
- position and personnel database and Workday identification numbers for ease of reference in other systems
- color coding to denote different budgets
- position full-time equivalencies during the biennium

To support scalability, the chart was created using a formula-based approach that uses data easily exportable from Workday. This will allow for straightforward management in the future with minimal manual effort needed, reducing the risk of inaccurate or incomplete data.

On Oct. 31, Jessica Knieling, DAS's chief human resources officer, approved the chart, which accompanies this memo.

**Agency Recommendation:**

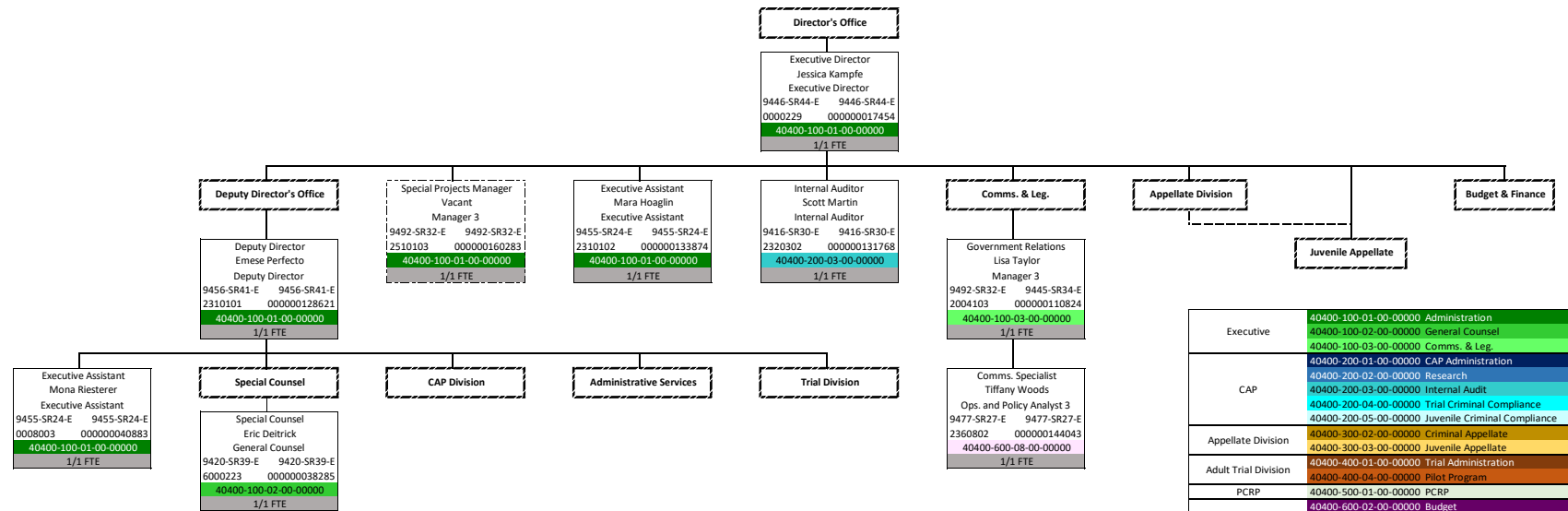
The Agency recommends that the Commission approve the above item for adoption by OPDC.

**Fiscal Impact:**

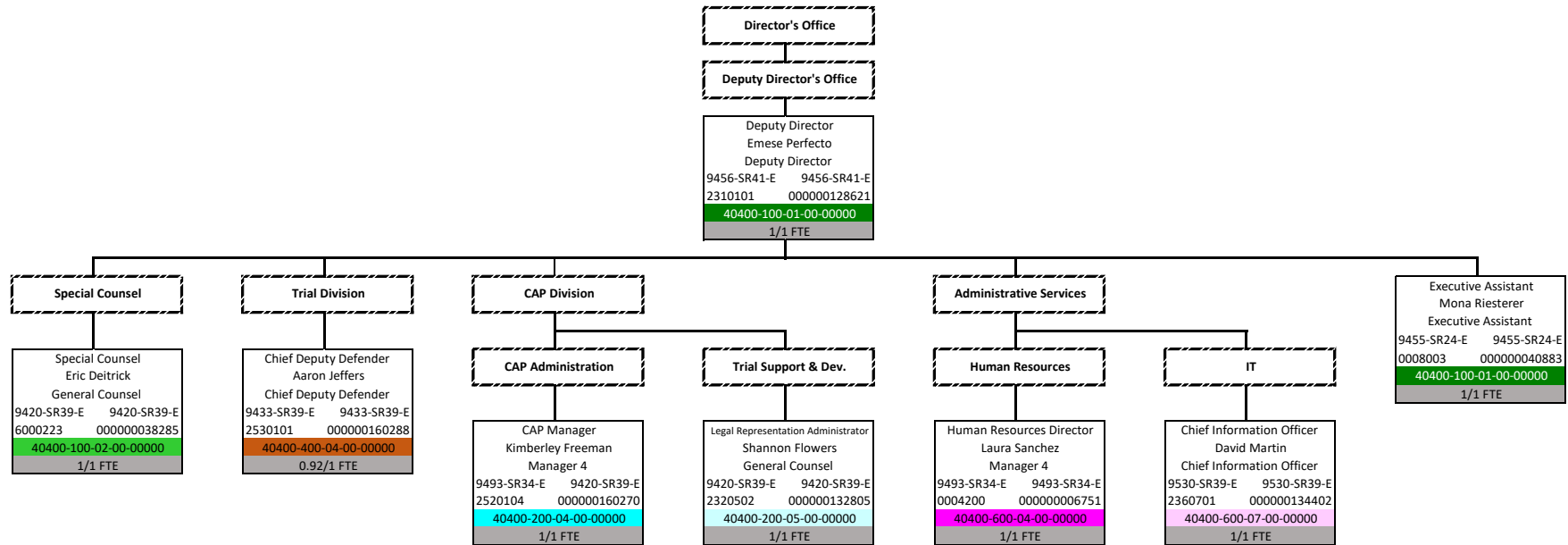
None.

**Agency Proposed Motion:**

I move the Commission approve the adoption of this organizational chart model for future use by the agency.



Executive	40400-100-01-00-00000 Administration	Business Title
	40400-100-02-00-00000 General Counsel	Worker
	40400-100-03-00-00000 Comms. & Leg.	Worker Class
CAP	40400-200-01-00-00000 CAP Administration	Worker Job Code
	40400-200-02-00-00000 Research	Position Job Code
	40400-200-03-00-00000 Internal Audit	PPDB
	40400-200-04-00-00000 Trial Criminal Compliance	Workday ID
Appellate Division	40400-200-05-00-00000 Juvenile Criminal Compliance	Agency Cross Reference
	40400-300-02-00-00000 Criminal Appellate	FTE/1 FTE
	40400-300-03-00-00000 Juvenile Appellate	Section
Adult Trial Division	40400-400-01-00-00000 Trial Administration	Permanent Position
	40400-400-04-00-00000 Pilot Program	LD/Temporary Position
Administrative Services	40400-500-01-00-00000 PCR	
	40400-600-02-00-00000 Budget	
	40400-600-03-00-00000 Accounting/Accounts Payable	
	40400-600-04-00-00000 Human Resources	
	40400-600-05-00-00000 Procurement	
	40400-600-06-00-00000 Facilities	
	40400-600-07-00-00000 Information Services	
	40400-600-08-00-00000 Fin./Case Management System	

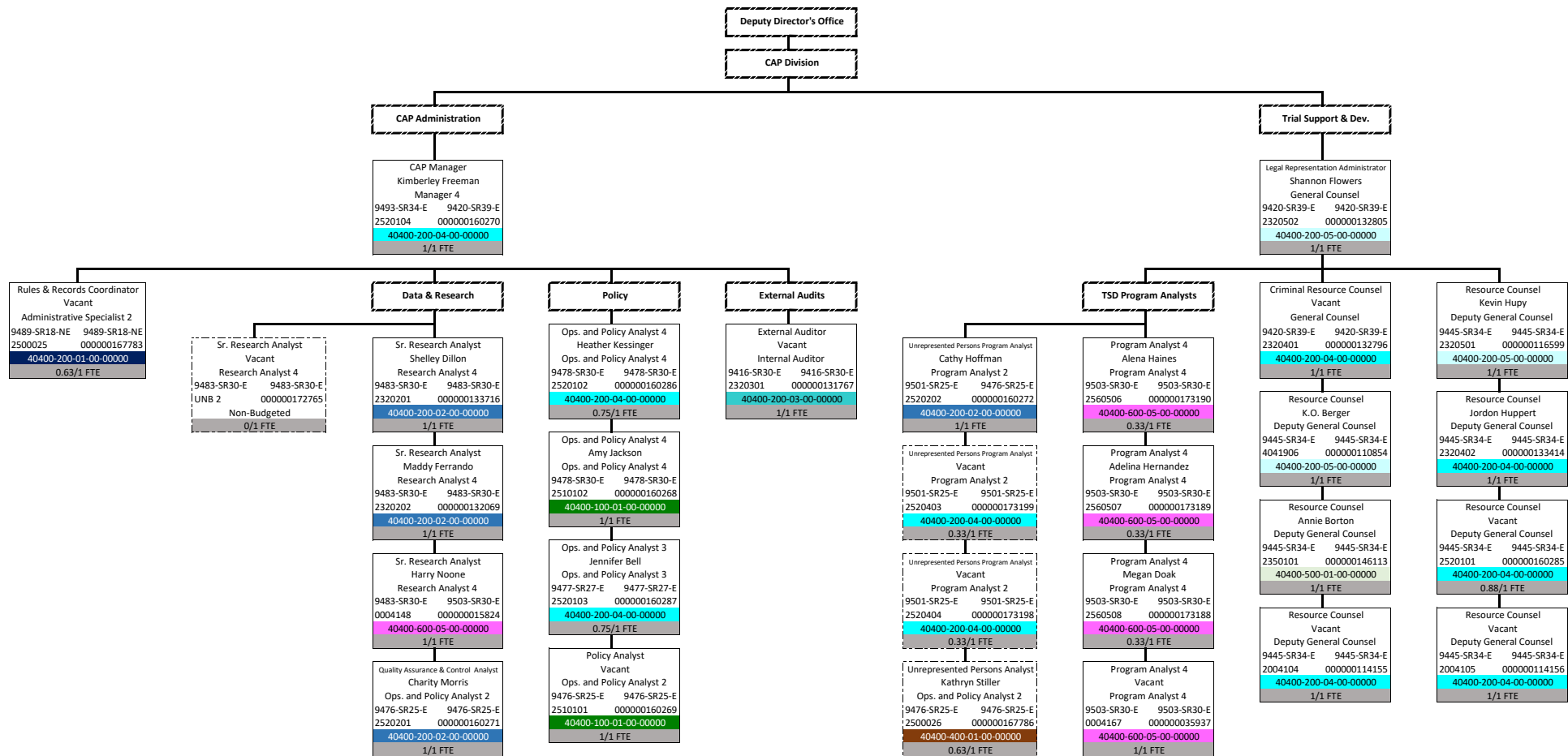


Executive	40400-100-01-00-00000	Administration
	40400-100-02-00-00000	General Counsel
	40400-100-03-00-00000	Comms. & Leg.
CAP	40400-200-01-00-00000	CAP Administration
	40400-200-02-00-00000	Research
	40400-200-03-00-00000	Internal Audit
	40400-200-04-00-00000	Trial Criminal Compliance
	40400-200-05-00-00000	Juvenile Criminal Compliance
Appellate Division	40400-300-02-00-00000	Criminal Appellate
	40400-300-03-00-00000	Juvenile Appellate
Adult Trial Division	40400-400-01-00-00000	Trial Administration
	40400-400-04-00-00000	Pilot Program
PCRP	40400-500-01-00-00000	PCRP
Administrative Services	40400-600-02-00-00000	Budget
	40400-600-03-00-00000	Accounting/Accounts Payable
	40400-600-04-00-00000	Human Resources
	40400-600-05-00-00000	Procurement
	40400-600-06-00-00000	Facilities
	40400-600-07-00-00000	Information Services
	40400-600-08-00-00000	Fin./Case Management System

Business Title	
Worker	
Worker Class	
Worker Job Code	Position Job Code
PPDB	Workday ID
Agency Cross Reference	
FTE/1 FTE	

Section
Permanent Position
LD/Temporary Position

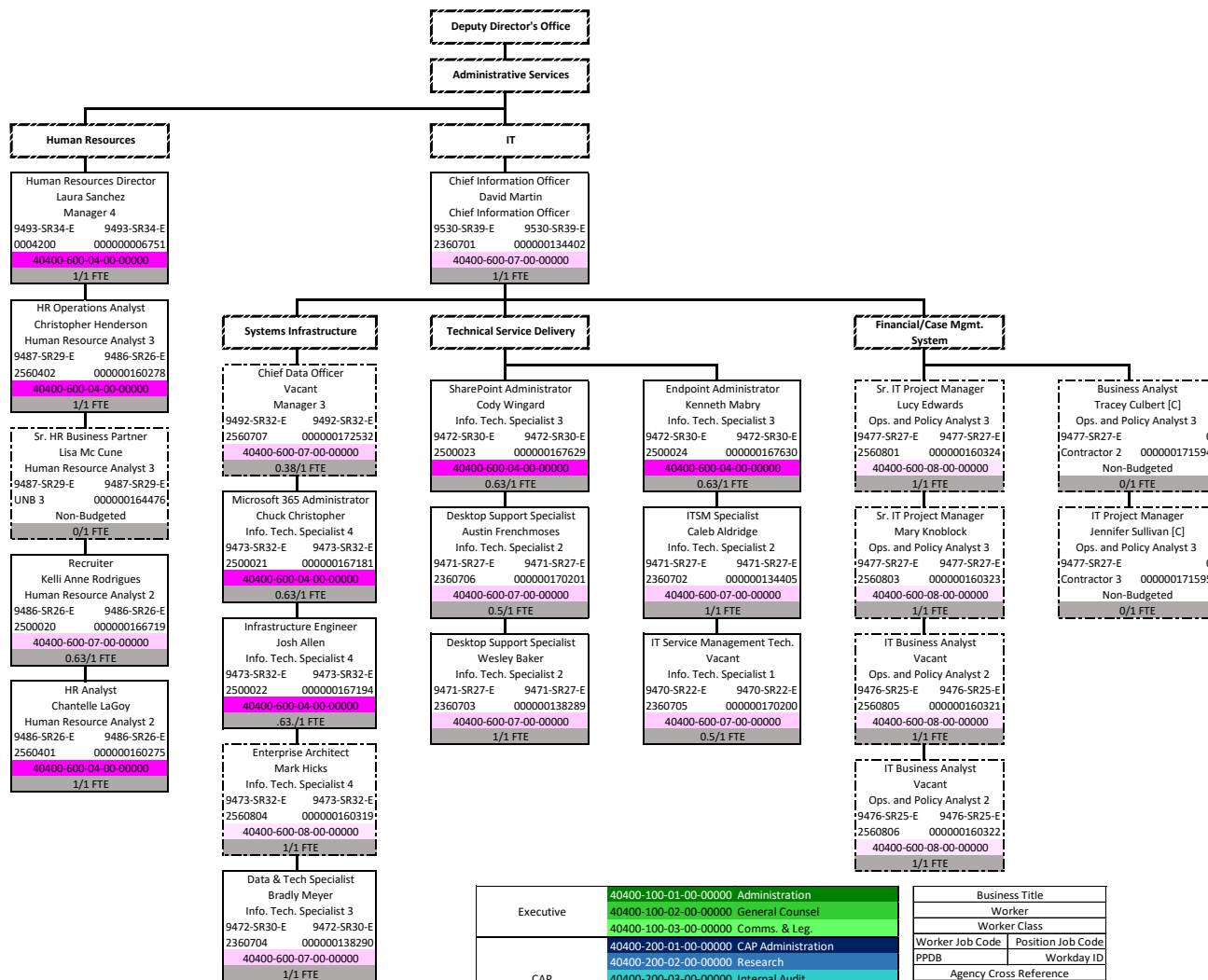




Executive	40400-100-01-00-00000	Administration
	40400-100-02-00-00000	General Counsel
	40400-100-03-00-00000	Comms. & Leg.
CAP	40400-200-01-00-00000	CAP Administration
	40400-200-02-00-00000	Research
	40400-200-03-00-00000	Internal Audit
	40400-200-04-00-00000	Trial Criminal Compliance
	40400-200-05-00-00000	Juvenile Criminal Compliance
Appellate Division	40400-300-02-00-00000	Criminal Appellate
	40400-300-03-00-00000	Juvenile Appellate
Adult Trial Division	40400-400-01-00-00000	Trial Administration
	40400-400-04-00-00000	Pilot Program
PCRP	40400-500-01-00-00000	PCRP
Administrative Services	40400-600-02-00-00000	Budget
	40400-600-03-00-00000	Accounting/Accounts Payable
	40400-600-04-00-00000	Human Resources
	40400-600-05-00-00000	Procurement
	40400-600-06-00-00000	Facilities
	40400-600-07-00-00000	Information Services
	40400-600-08-00-00000	Fin./Case Management System

Business Title	
Worker	
Worker Class	
Worker Job Code	Position Job Code
PPDB	Workday ID
Agency Cross Reference	
FTE/1 FTE	

Section
Permanent Position
LD/Temporary Position



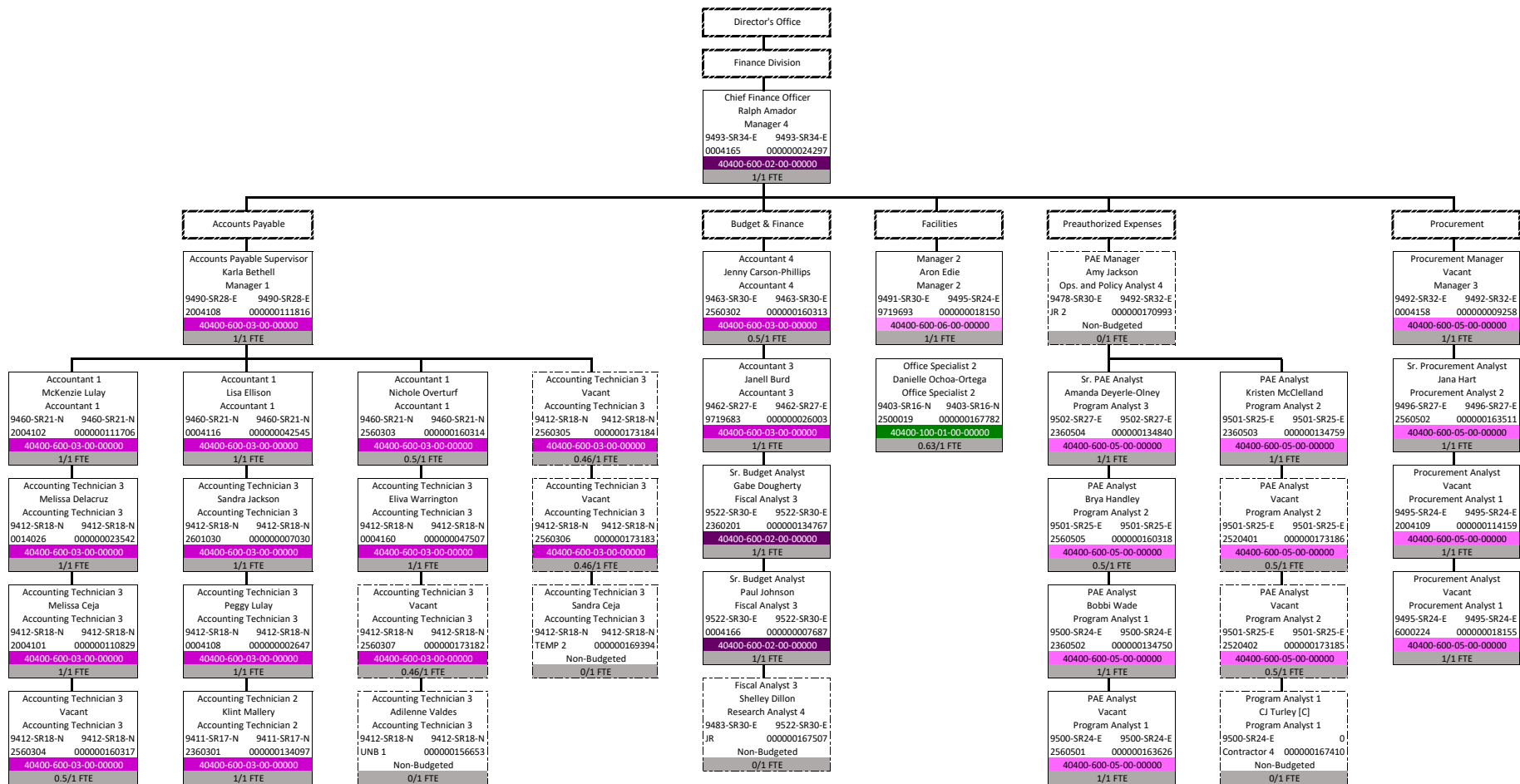
Executive	40400-100-01-00-00000	Administration
	40400-100-02-00-00000	General Counsel
	40400-100-03-00-00000	Comms. & Leg.
CAP	40400-200-01-00-00000	CAP Administration
	40400-200-02-00-00000	Research
	40400-200-03-00-00000	Internal Audit
	40400-200-04-00-00000	Trial Criminal Compliance
Appellate Division	40400-200-05-00-00000	Juvenile Criminal Compliance
	40400-300-02-00-00000	Criminal Appellate
Adult Trial Division	40400-300-03-00-00000	Juvenile Appellate
	40400-400-01-00-00000	Trial Administration
PCRP	40400-400-04-00-00000	Pilot Program
Administrative Services	40400-500-01-00-00000	PCRP
	40400-600-02-00-00000	Budget
	40400-600-03-00-00000	Accounting/Accounts Payable
	40400-600-04-00-00000	Human Resources
	40400-600-05-00-00000	Procurement
	40400-600-06-00-00000	Facilities
	40400-600-07-00-00000	Information Services
	40400-600-08-00-00000	Fin./Case Management System

Business Title	
Worker	
Worker Class	
Worker Job Code	Position Job Code
PPDB	Workday ID
Agency Cross Reference	
FTE/1 FTE	

Section

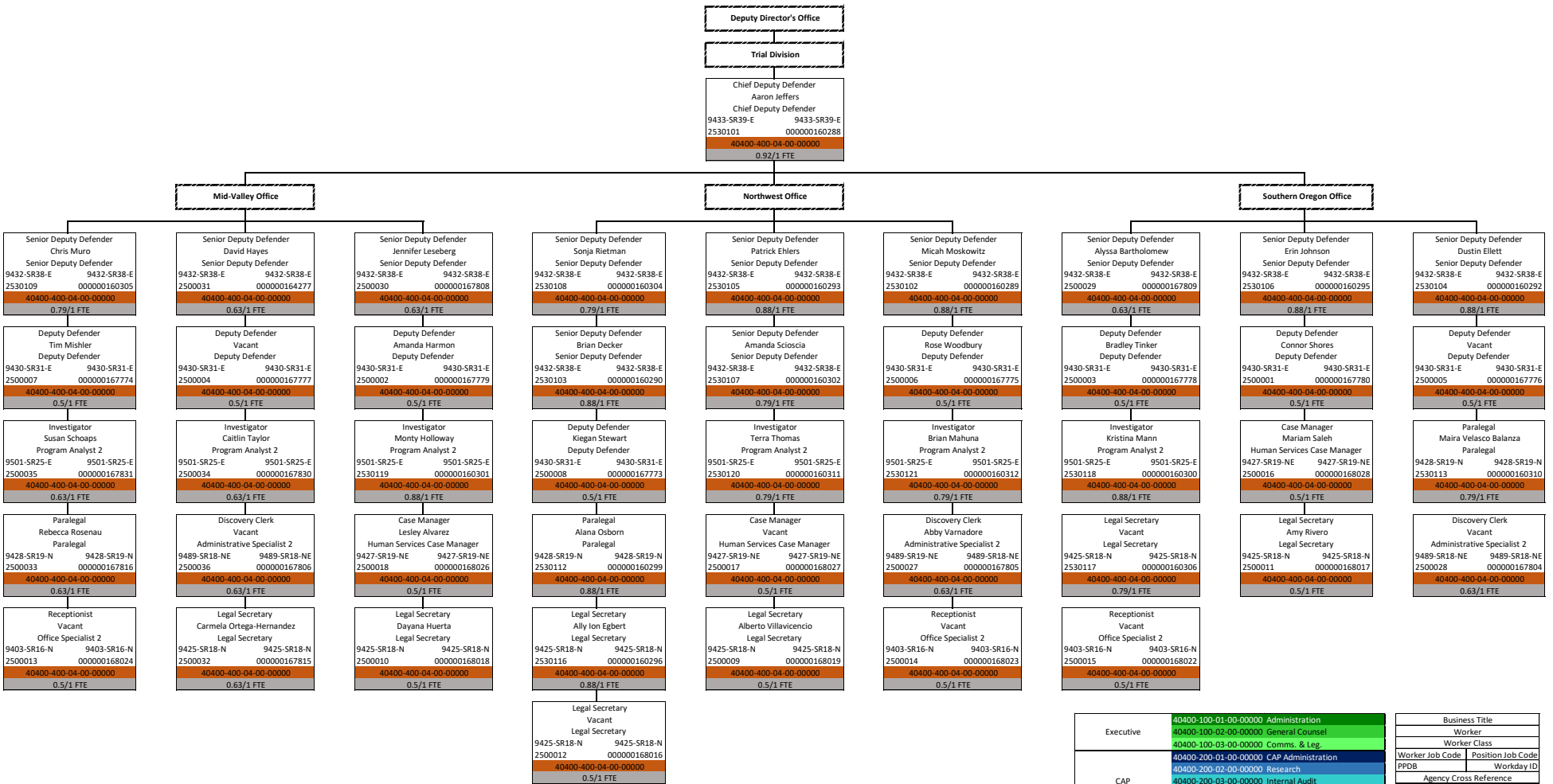
Permanent Position

LD/Temporary Position



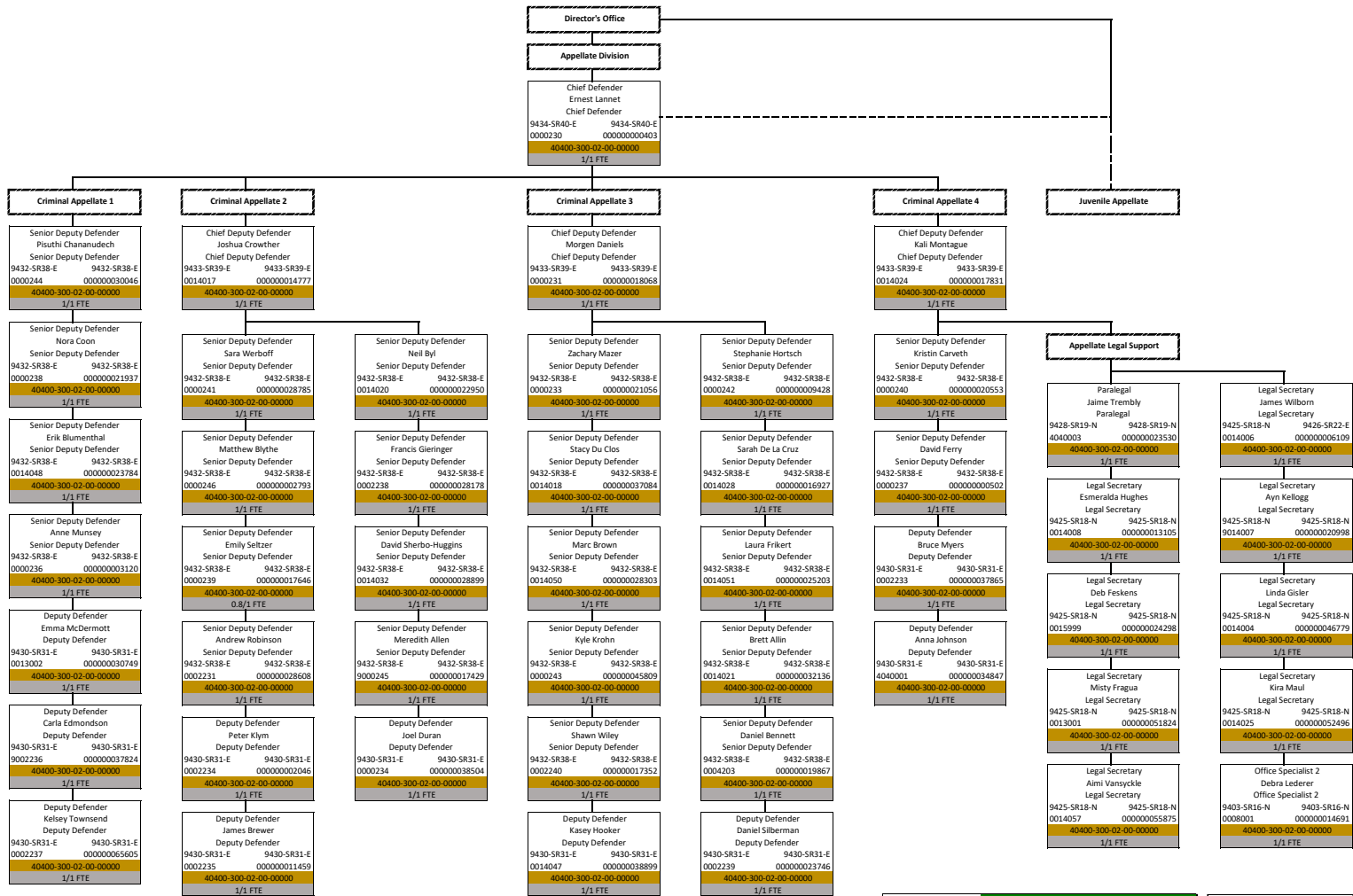
Executive	40400-100-01-00-00000	Administration
	40400-100-02-00-00000	General Counsel
	40400-100-03-00-00000	Comms. & Leg.
CAP	40400-200-01-00-00000	CAP Administration
	40400-200-02-00-00000	Research
	40400-200-03-00-00000	Internal Audit
	40400-200-04-00-00000	Trial Criminal Compliance
	40400-200-05-00-00000	Juvenile Criminal Compliance
Appellate Division	40400-300-02-00-00000	Criminal Appellate
	40400-300-03-00-00000	Juvenile Appellate
Adult Trial Division	40400-400-01-00-00000	Trial Administration
	40400-400-04-00-00000	Pilot Program
PCR/P	40400-500-01-00-00000	PCR/P
Administrative Services	40400-600-02-00-00000	Budget
	40400-600-03-00-00000	Accounting/Accounts Payable
	40400-600-04-00-00000	Human Resources
	40400-600-05-00-00000	Procurement
	40400-600-06-00-00000	Facilities
	40400-600-07-00-00000	Information Services
	40400-600-08-00-00000	Fin./Case Management System

Business Title
Worker
Worker Class
Worker Job Code
Position Job Code
PPDB
Workday ID
Agency Cross Reference
FTE/1 FTE
Section
Permanent Position
LD/Temporary Position

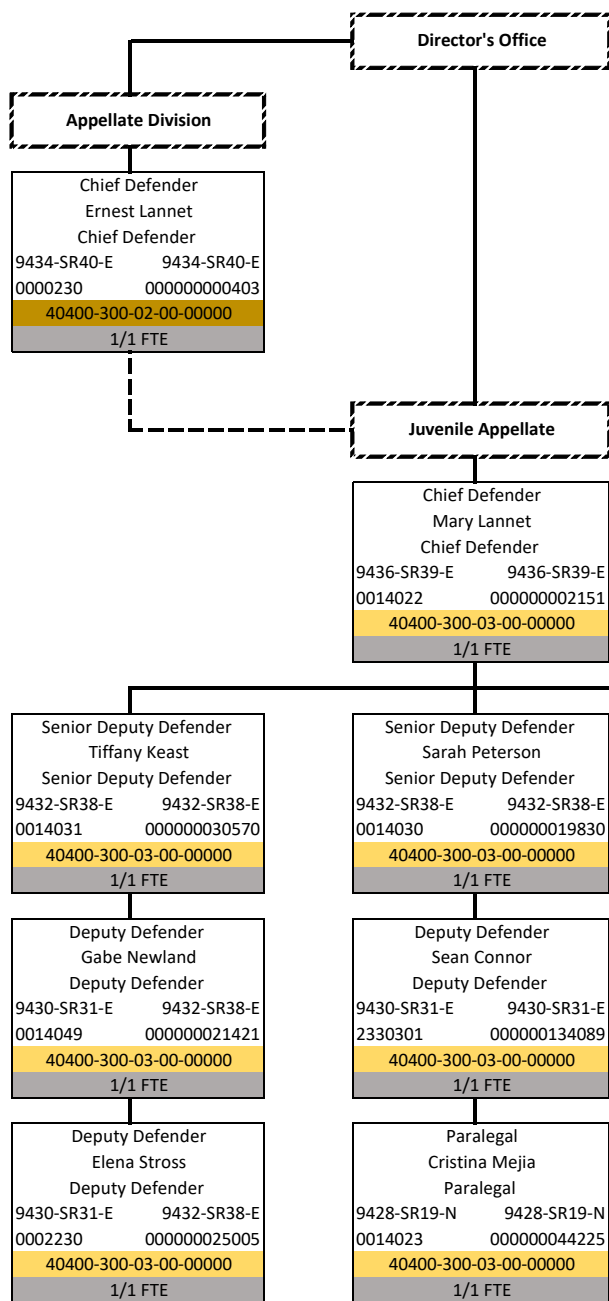


Executive	40400-100-01-00-00000	Administration
	40400-100-02-00-00000	General Counsel
	40400-100-03-00-00000	Comms. & Leg.
CAP	40400-200-01-00-00000	CAP Administration
	40400-200-02-00-00000	Research
	40400-200-03-00-00000	Internal Audit
	40400-200-04-00-00000	Trial Criminal Compliance
	40400-200-05-00-00000	Juvenile Criminal Compliance
Appellate Division	40400-300-02-00-00000	Criminal Appellate
	40400-300-03-00-00000	Juvenile Appellate
Adult Trial Division	40400-400-01-00-00000	Trial Administration
	40400-400-04-00-00000	Pilot Program
PCR	40400-500-01-00-00000	PCR
Administrative Services	40400-600-02-00-00000	Budget
	40400-600-03-00-00000	Accounting/Accounts Payable
	40400-600-04-00-00000	Human Resources
	40400-600-05-00-00000	Procurement
	40400-600-06-00-00000	Facilities
	40400-600-07-00-00000	Information Services
	40400-600-08-00-00000	Fin/Case Management System

Business Title	
Worker	
Worker Class	
Worker Job Code	Position Job Code
PPDB	Workday ID
Agency Cross Reference	
FTE/1 FTE	
Section	
Permanent Position	
ID/Temporary Position	



Executive	40400-100-01-00-00000 Administration	Business Title
	40400-100-02-00-00000 General Counsel	Worker
	40400-100-03-00-00000 Comms. & Leg.	Worker Class
	40400-200-01-00-00000 CAP Administration	Worker Job Code
	40400-200-02-00-00000 Research	Position Job Code
CAP	40400-200-03-00-00000 Internal Audit	PPDB
	40400-200-04-00-00000 Trial Criminal Compliance	Workday ID
	40400-200-05-00-00000 Juvenile Criminal Compliance	Agency Cross Reference
	40400-300-02-00-00000 Criminal Appellate	FTE/1 FTE
	40400-300-03-00-00000 Juvenile Appellate	Section
Appellate Division	40400-400-01-00-00000 Trial Administration	Permanent Position
Adult Trial Division	40400-500-01-00-00000 PCRP	LD/Temporary Position
PCRP	40400-600-02-00-00000 Budget	
Administrative Services	40400-600-03-00-00000 Accounting/Accounts Payable	
	40400-600-04-00-00000 Human Resources	
	40400-600-05-00-00000 Procurement	
	40400-600-06-00-00000 Facilities	
	40400-600-07-00-00000 Information Services	
	40400-600-08-00-00000 Fin./Case Management System	



Executive	40400-100-01-00-00000	Administration
	40400-100-02-00-00000	General Counsel
	40400-100-03-00-00000	Comms. & Leg.
CAP	40400-200-01-00-00000	CAP Administration
	40400-200-02-00-00000	Research
	40400-200-03-00-00000	Internal Audit
	40400-200-04-00-00000	Trial Criminal Compliance
	40400-200-05-00-00000	Juvenile Criminal Compliance
Appellate Division	40400-300-02-00-00000	Criminal Appellate
	40400-300-03-00-00000	Juvenile Appellate
Adult Trial Division	40400-400-01-00-00000	Trial Administration
	40400-400-04-00-00000	Pilot Program
PCRP	40400-500-01-00-00000	PCRP
Administrative Services	40400-600-02-00-00000	Budget
	40400-600-03-00-00000	Accounting/Accounts Payable
	40400-600-04-00-00000	Human Resources
	40400-600-05-00-00000	Procurement
	40400-600-06-00-00000	Facilities
	40400-600-07-00-00000	Information Services
	40400-600-08-00-00000	Fin./Case Management System

Business Title	
Worker	
Worker Class	
Worker Job Code	Position Job Code
PPDB	Workday ID
Agency Cross Reference	
FTE/1 FTE	

Section

Permanent Position

LD/Temporary Position

## OPDC AUDIT COMMITTEE CHARTER

This charter defines the authority, responsibility, and structure of the Audit Committee (Committee), a “Special Committee” of the Oregon Public Defense Commission (OPDC or Commission). The Audit Committee is not a governing body.

### A. Authority and Purpose of the Audit Committee

1. “Each agency having an internal audit function shall establish and maintain an audit committee<sup>1</sup>.”
2. “The primary purpose of the Committee is to enhance the quality and independence of the audit function, thereby promoting the integrity of the internal and external audit processes<sup>2</sup>.”

### B. Duties

1. The Committee shall ensure the integrity and effectiveness of the Internal Audit function and provide guidance to enhance the quality of internal and external audits.
2. The Committee shall adhere to minimum committee governance requirements as outlined in Oregon Administrative Rule (OAR) 125-700-0135(5)(a) through (d).
3. The Committee and its members shall perform the following basic duties:
  - a. Ensure the independence of the Internal Audit function.
  - b. Provide input on risk assessments, which forms the basis of the Internal Audit Plan.
  - c. Provide input and approval of the Internal Audit Plan, which establishes audit priorities, goals and objectives, and a three-year auditing work schedule.
  - d. Inform the Commission Chair and the Executive Director in writing of any concerns regarding the job description of an internal auditor.
  - e. Inform the Commission Chair in writing if the Chief Audit Executive provides written notification of a scope or resource limitation placed on the Internal Audit function

---

<sup>1</sup> OAR 125-700-0135(5), first sentence.

<sup>2</sup> OAR 125-700-0135(5), second sentence. Note: On January 1, 2025, OPDC will become part of the Executive Branch to which Oregon Administrative Rules apply.

- f. Advocate for adequate budget resources to provide continuing professional education for Internal Audit staff, periodic external peer reviews as required by professional auditing Standards, and an adequate level of audit staff.
- g. Ensure follow-up of Internal Audit report findings and recommendations to determine whether proper corrective action has been completed or that Management has explicitly assumed the risk of not taking the recommended corrective action.
- h. Advise Management, the Chief Audit Executive, and Commission (as appropriate) if, in the judgement of the Committee, Management is assuming an unreasonable level of risk.
- i. Identify the level of audit resources that will provide the Committee and the Commission the desired amount and scope of information on which to make reliable risk-based decisions.
- j. Review internal and external audit findings, recommendations, as well as auditees' proposed mitigations and advise the Chief Audit Executive of any concerns.
- k. Understand the scope of internal and external auditors' reviews of internal control over financial and performance reporting, and obtain reports on significant findings and recommendations, together with Management's responses.
- l. Monitor the quality of the Internal Audit function and report to the Commission and Executive Director regarding actions to improve the function.
- m. Participate in the performance appraisal of the Chief Audit Executive.
- n. Provide input on any Commission request for audits to be performed by the Secretary of State Audits Division or other independent consultants.
- o. Ensure periodic external peer reviews of the Internal Audit function (external Quality Assurance Reviews) required by Oregon Administrative Rules and Standards. Receive external peer review reports and direct any applicable changes and improvements recommended therein.
- p. Review with Management, and the Secretary of State Audit's Division financial auditors, the results of the Audits Division's annual financial statement audit, including any difficulties encountered.
- q. Maintain confidentiality of communications and deliberations.
- r. Be informed by Agency Management of the appointment or dismissal of the Chief Audit Executive before such actions become effective. Objections, if any, of such



actions will be made part of the committee minutes and forwarded to Management and the Commission.

4. The Committee and its members shall perform the following duties at least annually:

- a. Obtain from the Chief Audit Executive: a statement of Code of Ethics compliance and disclosures of actual or perceived conflicts of interest.
- b. Obtain from the Chief Audit Executive annually: a report on compliance with auditing Standards and any challenges in meeting these Standards.
- c. Receive and review the Internal Audit annual report prepared for the Oregon Department of Administrative Services.
- d. Report to the Commission on Committee activities.

5. The Committee and its members shall perform the following duties periodically:

- a. Every two years review and assess the adequacy of the Audit Committee charter and report any concerns to the Commission.
- b. Periodically review significant exam findings by regulatory agencies, as well as audit findings and investigations of misconduct and fraud, to stay current on regulatory trends and relevant auditing matters.
- c. Confirm annually, via Committee meeting minutes, that all responsibilities outlined in this charter have been carried out.

C. Composition

1. The audit Committee is composed of between seven and nine voting Members, a majority of whom shall not be employees of the Agency or Members of the Commission.
2. The audit Committee shall include the following voting members:
  - a. At least one Commission member, as appointed by the Commission Chairperson.
  - b. The Agency's Executive Director, or designee.
  - c. The Agency's Budget and Finance Manager, or designee.
  - d. Between four and six External Members, appointed by the Chairperson of the Committee, in consultation with the Agency Executive Director or designee, the Chief Audit Executive, and the other Committee Members, and ratified by the Commission.
3. The Chief Audit Executive, ~~who~~ serves as a non-voting member of the Committee.

#### 4. Committee Chairperson

- a. The Chairperson of the Committee shall be an external member, not be an employee of the Agency or member of the Commission
- b. The Chair of the Committee will be filled by a current Committee member. Members may volunteer or accept nomination from other members.
- c. The Chair's term will begin upon affirmative vote by a majority of members.
- d. The term of office as Chair will be two years, with no term limits.

#### 5. Terms of Office

- a. Agency members and the Commission member serving on the Committee may serve for as long as they hold their positions.
- b. External Members are appointed to two-year terms, but may serve consecutive two-year terms with Committee approval, subject to ratification by the Commission.

#### D. Appointment of Committee Members

1. Candidates for the Committee may be nominated by any member; nominations should reflect the Committee's need for a variety of perspectives.
2. The Committee Chairperson shall carry out the following duties regarding appointment of committee members:
  - a. Monitor turnover and take steps to bring in new Committee Members at least every four years.
  - b. Work with the Agency Executive Director or designee and the Chief Audit Executive to identify and initially screen candidates.
  - c. Consult with the Audit Committee members and the Executive Director to select new appointees.
  - d. Appoint new members subject to ratification by the Commission at their next meeting opportunity.
3. Diversity, Equity, and Inclusion (DEI) shall be considered in the selection of Committee Members. Failure to achieve or maintain a precise composition shall not prohibit the Committee from meeting or conducting activities.

#### 4. Conflicts of Interest

## DRAFT

- a. It is the responsibility of an Audit Committee member to disclose a conflict of interest, whether actual or perceived, to the Committee.
- b. If there is any question as to whether Audit Committee member(s) should recuse themselves from a vote, the Committee should vote to determine whether the member should recuse themselves.

### E. Removal of Committee Members

1. Audit Committee Members must attend, virtually or in person, no fewer than 3 of 4 quarterly Audit Committee meetings in a rolling 12-month period, unless excused by the Committee Chair.
2. External Members who fail to attend more than one quarterly meeting within a rolling 12-month period, unless excused by the Chair, may be removed from membership by the committee chair.
3. Any member of the Audit Committee may be removed, with or without cause, by a majority vote of the Audit Committee subject to ratification by the Commission. Pending the ratification of removal by the Commission, the removed Audit Committee member shall not participate in Audit committee debate or decisions unless the Audit Committee Chair determines otherwise and for good cause shown.
4. Members considering resignation should attempt to notify the Committee sufficiently in advance such that a replacement can be brought on in time for the subsequent quarterly meeting.

### F. Meetings, Agendas, Minutes

1. Meeting schedule, quorum, and member duties
  - a. The Audit Committee meets quarterly, with additional meetings held as necessary. Meetings are usually about two hours per session.
  - b. Because of the amount of material typically covered during meetings, it is important that Members attend regularly, be punctual and come prepared, having reviewed the meeting materials.
  - c. A quorum is necessary to hold a meeting and conduct business. A quorum is composed of a majority of voting members.
  - d. Audit Committee action requires a quorum and the affirmative vote of at least one external member.
2. Agendas
  - a. Standing agenda items include

- i. Review and approval of the minutes for the prior meeting
    - ii. Roundtable time that allows Committee Members to bring forward any audit-related issues.
    - iii. A report on the state of Agency operations and finances from Agency management.
  - b. The Chief Audit Executive (CAE) will coordinate development of the remainder of the agenda by polling Committee Members one-to-two weeks prior to the quarterly meeting and three to five days prior to any supplemental meeting. The CAE and Committee Chair will finalize the agenda.
  - c. The Committee may invite guests, such as Secretary of State Audit Division managers, other Agency managers, or stakeholders, to present topics that promote Committee effectiveness.
  - d. At least once yearly, agenda items shall include:
    - i. A meeting between external Audit Committee Members and the Chief Audit Executive in the absence of the Commission member and Agency management.
    - ii. Time for the Committee to meet in the absence of the Chief Audit Executive.
    - iii. At least once a year, financial and performance audit managers from the Secretary of State's Audit Division will be invited to attend a Committee meeting, during which time shall be set aside for meeting with external Committee Members absent the Commission member, Agency management, and the Chief Audit Executive.
  - e. The Chief Audit Executive will distribute the meeting agenda and meeting-related material to Committee Members at least five working days before the next scheduled meeting.
  - f. A master file containing meeting agendas, minutes, and meeting materials shall be maintained by Agency management.
3. Staffing for Meetings
- a. Agency Management will provide support staff to attend Committee meetings and prepare written minutes.
  - b. The support staff will provide an electronic draft of the minutes to the Chair and Chief Audit Executive for review and revision, as necessary, within seven days following the meeting.

4. Public Records

DRAFT

Certain matters reviewed and deliberations by the committee may pertain to confidential information. The committee may designate those materials as confidential and for committee use only in which case committee members shall not disclose the information without the approval of the committee and said information shall, to the extent allowed by Oregon law, not be subject to public record disclosure.

DRAFT

# Oregon Public Defense Commission

## FCMS Project

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

**David Martin, CIO, FCMS**  
Presenting

November 13<sup>th</sup>, 2024



# OPDC FCMS Stage Gate 3

# Accomplishments

- 1. Change Management:** Moss Adams Discovery Interviews Conclude.
- 2. RFP Live on Oregon Buys:** Q&A Round in progress for managing the solicitation.
- 3. Budget/Scope/Schedule:** Stage Gate 3 Refinement +/-10% Alignment: In progress.
- 4. Procurement – Addendum:** In Progress.



## OUR VISION

# Next Steps

- Procurement Track: Q&A, Bids, Evaluations, and Demos.
- Change Management Discovery Findings & Output run through November.
- Stage 3 Work – Future State Process, 150-200 Use Cases, Benefits Management Plan, Cloud Workbook 10/1-3/30.



# Risk Governance

1. **EIS Stage Gate Approvals** – mitigating Stage Gate 3 review with LFO, DAS, EIS.
2. **Bond Funding** – mitigating Bond Funding risk with application submitted to DAS for approval of \$13 million estimated.
3. **Schedule** – risks around critical path for iQMS interviews, Change Management Discovery Sessions, Procurement Activities all running in October. SME's availability being managed closely.

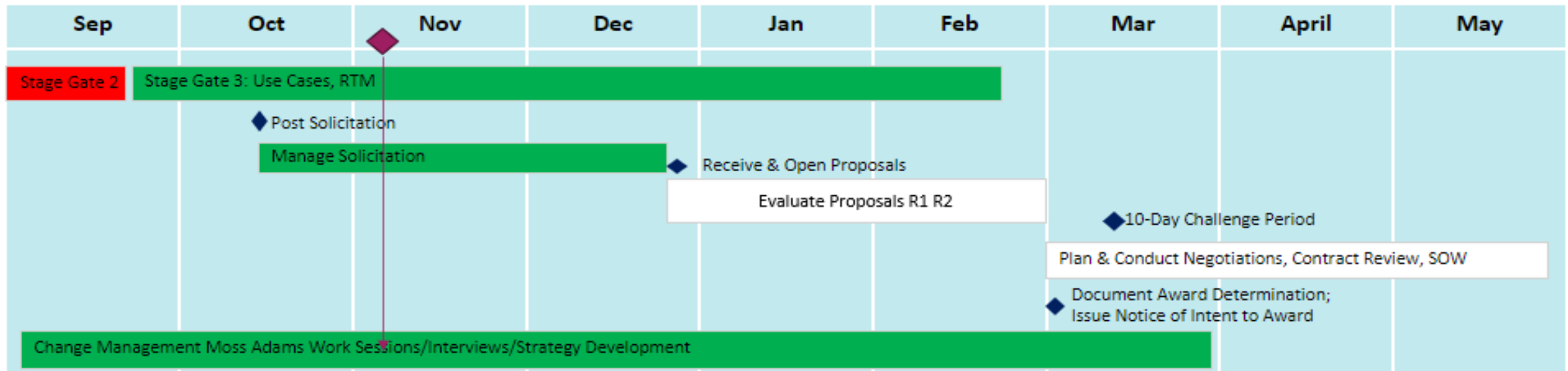
# Schedule – Critical Path

- . Deadline for RFP Questions, November 15, 2024
- . 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 - September

**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

