Members:

Robert Harris, Chair
Susan Mandiberg, Vice Chair
Stephanie Engelsman
Alton Harvey, Jr.
Leslie Kay
Philippe Knab
Tom Lininger
Angel Lopez

Oregon Public Defense Commission

Nonvoting Members:

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

Executive Director:

Kenneth Sanchagrin

Oregon Public Defense Commission
*Meeting will occur virtually via Zoom.**
Wednesday, November 18, 2026
9:00 AM – approx. 11:00 AM PST

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 – Call to Order**	Chair Harris
9:05-9:20	**Public Comment**	
9:20-9:45	**Update:** Director's Update • Unrepresented Persons in Oregon Courts • Upcoming Meeting Dates • Other Updates	Ken Sanchagrin
9:45-10:00	**Briefing:** Delegation of Rulemaking Authority	Jennifer Bell
10:00-10:30	**Briefing:** Comprehensive Public Defense Report IV	Lisa Taylor

10:30-11:00	**Update:** Commission Subcommittee Updates • Governance, Policy, and Standards Subcommittee • Legislative and Policy Impact Subcommittee • Extraordinary Expenses Subcommittee	Vice Chair Mandiberg Commissioner Lininger Commissioner Knab
11:00 (Approximately)	**Adjourn**	

**To join the Zoom meeting, click this link: https://zoom.us/j/92627274488. This meeting is accessible to persons with disabilities or with additional language service needs. Our Zoom virtual meeting platform is also equipped with Closed Captioning capabilities in various languages, which agency staff can assist you with setting up ahead of meetings.*

Requests for interpreters for the hearing impaired, for other accommodations for persons with disabilities, or for additional interpreter services should be made to info@opdc.state.or.us. Please make requests as far in advance as possible, and at least 48 hours in advance of the meeting, to allow us to best meet your needs.

Listed times are an estimate, and the Chair may take agenda items out of order and/or adjust times for agenda items as needed.

The Commission welcomes public comment. Please click here to review the guidelines for providing public comment on our website, and click here to sign up to provide public comment.

Next meeting: ***December 4, 2026, 9am – 2pm in person at the Benson Hotel in Portland, Oregon and via Zoom.***

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

STATEWIDE

Unrepresented Report
October 2026

Unrepresented Numbers

Statewide, there were 897 unrepresented individuals as of October 31, 2026, including adults and juveniles in and out of custody, post-disposition, and non-criminal cases. This is a decrease of 255 or 22.1% since September 30, 2026. In-custody individuals decreased by 39 in October compared to September.

Category	10/31/25	9/30/26	10/31/26
Out-of-Custody	2,445	915	750
In-Custody	178	97	58
Probation Viol.	236	43	33
Non-Criminal	104	97	56
Total	**2,963**	**1,152**	**897**

Caseload Capacity

2025-27 provider contracts started on October 1, 2025. Case counts and MAC utilization for contractors reset as of that date. As the Oregon Trial Division is not on a contract cycle, its data is reported for the full 25-27 biennium. OPDC's real-time OTD data is current as of October 31, while contractors' data is current as of September 30.

Provider Type	Total Cases	Monthly Cases	MAC Utilization
Contractors[1]	**90,007**	**7,572**	**94.0%**
Consortia	39,672	3,451	94.3%
Individuals/Firms	16,174	1,220	100.5%
Non-Profits	34,161	2,901	91.1%
OPDC Trial Div[2]	**3,197**	**222**	**90.3%**
Central Valley	1,172	58	89.3%
Northwest	737	73	78.7%
Southern	1,289	91	104.8%

[1]OPDC Criminal Contract Data, Oct. 2025-September 2026

[2]Oregon Trial Division, MAC excludes Chiefs, July 2025-October 2026

Case Assignments

OPDC assignment coordinators identified counsel for 596 unrepresented cases statewide, including 131 cases subject to *Betschart*, in October. Below are case assignments made by OPDC staff for unrepresented cases in October 2026.

Provider	September	October	Total Since 7/1/25
Contractor	133	173	1,858
Hourly	423	367	7,600
OTD	28	57	896
Total	**583**	**596**	**10,216**

Unrepresented Trends

Figure 1 shows the number of unrepresented individuals in custody and out of custody over the past 12 months, broken into case categories. **Figure 2** shows the trend line for both in-custody and out-of-custody pretrial individuals over the past 12 months. The red line indicates when the *Roberts* decision was released.

Figure 1: Pretrial Unrepresented Cases & Individuals

Source: OJD Unrepresented Data

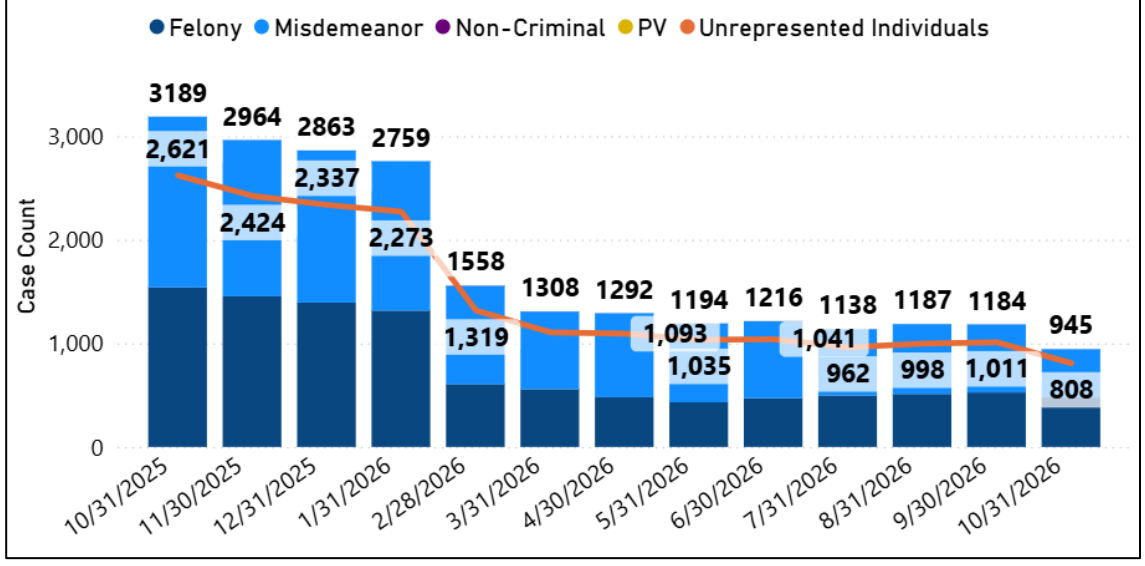
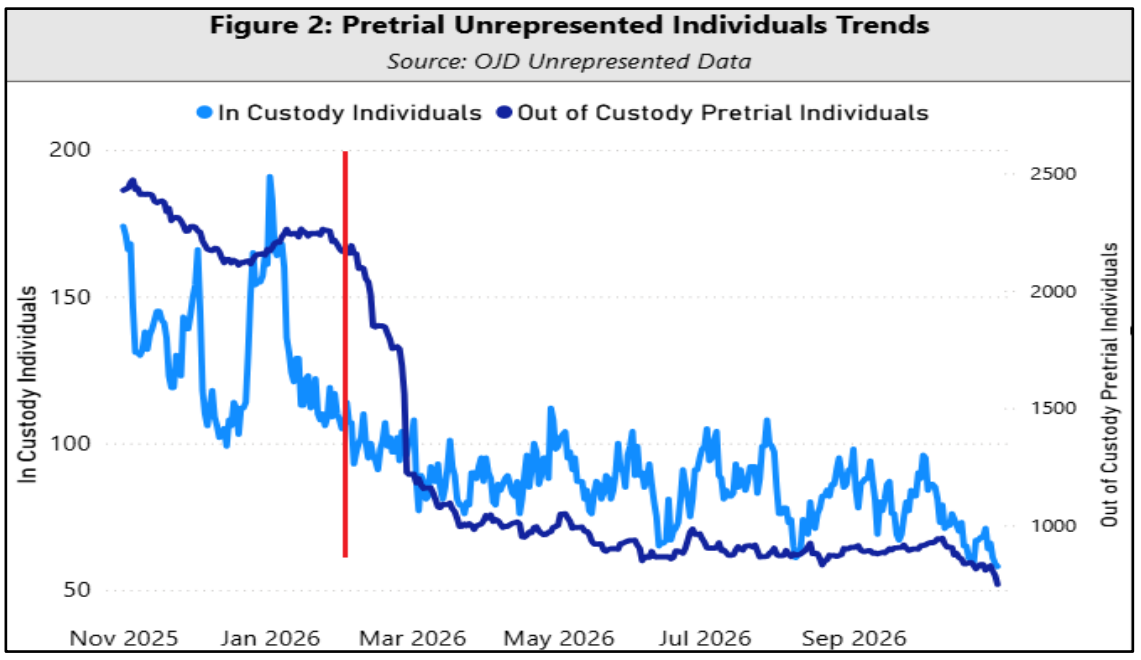


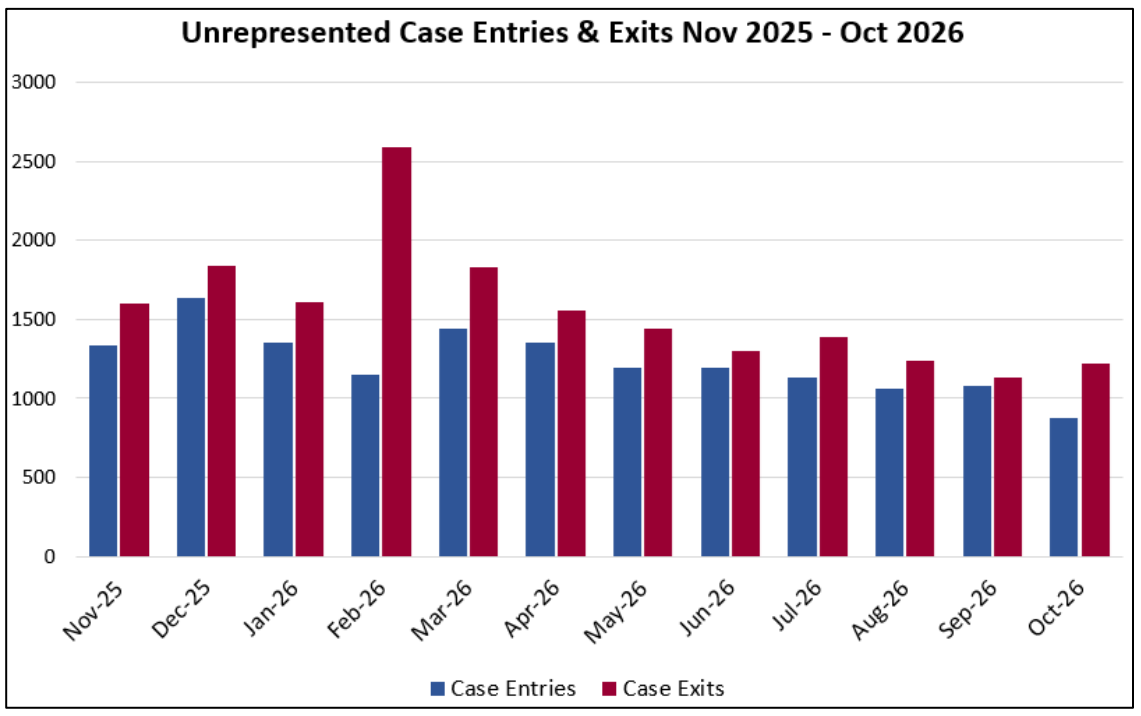
Figure 2: Pretrial Unrepresented Individuals Trends

Source: OJD Unrepresented Data



Entries and Exits

In the past 12 months 14,805 cases entered unrepresented status and 18,735 cases exited unrepresented status. Cases can enter and exit unrepresented status multiple times. There have been more exits than entries in 12 of the past 12 months.



ROBERTS IMPACT

On February 5, 2026, the Oregon Supreme Court ruled in *State v. Roberts* that trial courts must dismiss – without prejudice – criminal cases against defendants who have been unrepresented for more than 60 consecutive days in a misdemeanor case and 90 consecutive days in a felony case. Through the end of October, 2,504 unrepresented cases were dismissed statewide due to *Roberts*. Initially, there was a large number of *Roberts* dismissals in February, culminating during the week of February 23. Since the initial wave of *Roberts* dismissals, the number of dismissals has declined and appears to be stabilizing (see Table 1 below).

Impact on Unrepresented Cases

Roberts dismissal data is reported at the case level, not the individual level. As there is no 1:1 relationship between *Roberts* case dismissals and unrepresented individuals, we measure *Roberts* dismissals against case exits for other reasons, such as identifying counsel or other dismissals not related to *Roberts*.

Figure 1: Monthly Case Entries & Exits after Roberts

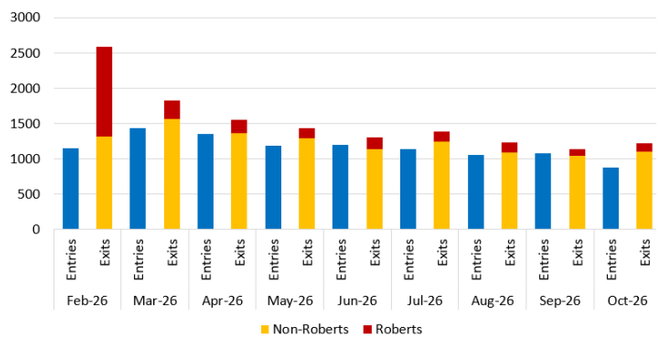


Figure 1 reports cases entering and exiting the unrepresented list between February and October 2026, along with the proportions of those exits attributable to *Roberts*. As shown in Table 1, during that timeframe, 13,685 unrepresented cases exited the unrepresented list, 2,504 of which were due to *Roberts* dismissals, or approximately 18%. Since February, the share of Roberts dismissals has fallen substantially. Crisis counties saw higher proportions of *Roberts* exits than non-crisis counties, with the highest concentration of *Roberts* dismissals being found in Multnomah County.

Of the dismissed cases, 48% were Misdemeanors, 35% were C Felonies, 10% were probation violations, and 7% were B Felonies. Less than 1% were A Felonies, Unclassified Felonies, or Contempt charges.

Table 1. Cases Exiting the Unrepresented List Between 2/1/26 - 10/30/26

County	Total Exits Since 2/01/26	Monthly *Roberts* Dismissals									Total *Roberts* Dismissals	% of Exits Due to *Roberts*
		Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct		
Multnomah	4,113	736	128	91	64	116	75	85	52	54	1,379	34%
Washington	2,815	232	81	68	33	10	7	-	-	-	431	15%
Jackson	2,417	215	36	21	19	16	16	22	22	43	408	17%
Douglas	2,148	78	17	9	23	26	43	35	21	17	269	13%
All others	2,192	15	-	1	1	-	-	-	-	-	17	1%
Total	**13,685**	**1,276**	**262**	**190**	**140**	**168**	**141**	**142**	**95**	**114**	**2,504**	**18%**

Case Refiles

Roberts cases are dismissed without prejudice. Monitoring the number and rate of *Roberts* refiles is important for understanding both the impact of *Roberts* on case outcomes, as well as the impact on public defense workloads going forward. Table 2 reports *Roberts* refiles by case type and the percentage of those refiles that return to the unrepresented list for each crisis county as well as statewide. Of the 2,504 Roberts dismissals, 655 have since been refiled as of the end of October. Of the 655 cases refiled statewide, 10% are on the unrepresented list as of October 31, 2026.

Table 2. Roberts Dismissals and Refiles by Case Type

County	Total Roberts Dismissals	Total Roberts Refiles	Roberts Refiles by Case Type				% of Roberts Dismissals Refiled	Refiles Unrep. on 10/31/26	% of Refiles Unrep. on 10/31/26
			Misdo	C Fel	A/B Fel	Other			
Multnomah	1,379	205	15	140	49	1	15%	37	18%
Washington	431	222	89	112	20	1	52%	-	-
Jackson	408	78	57	13	5	3	19%	7	9%
Douglas	269	150	119	21	4	6	56%	21	14%
All Others	17	-	-	-	-	-	-	-	-
Total	**2,504**	**655**	**280**	**286**	**78**	**11**	**26%**	**65**	**10%**

SPECIAL RESOLUTION DOCKETS

Across Oregon, local courts use special resolution dockets (SRD), to quickly and efficiently resolve appropriate cases. These dockets differ in name, focus, and process. Some, like Jackson County's Early Disposition Docket or Multnomah County's Rapid Resolution Docket, intervene early to prevent cases from reaching the unrepresented list, reducing the number of unrepresented individuals by decreasing new case inflow. Others, like Marion County's Early Resolution Docket, aim to remove individuals already on unrepresented lists.

This report focuses on special dockets created in crisis jurisdictions since the release of the 12-month plan. The OPDC Trial Division staffs these dockets and recently enhanced this work by creating a dedicated special resolution docket team of three attorneys and three support staff. OPDC SRD attorneys are committed to getting the best outcome for their clients and resolve cases only after careful consultation with their clients. Other special dockets not staffed by OPDC exist elsewhere in the state and lead to beneficial outcomes in crisis and non-crisis jurisdictions. Washington County, for example, has operated a special docket since 2007.

Impact of Special Resolution Dockets

1,249 cases have gone through the Coos, Jackson, Marion, and Multnomah resolution dockets; of those, 616 have been resolved, 207 are pending, and 426 were not resolved.

County	Case Count	Resolved
Coos	127	49
Jackson*	571	373
Marion	122	65
Multnomah*	429	129
Total	**1,249**	**616**

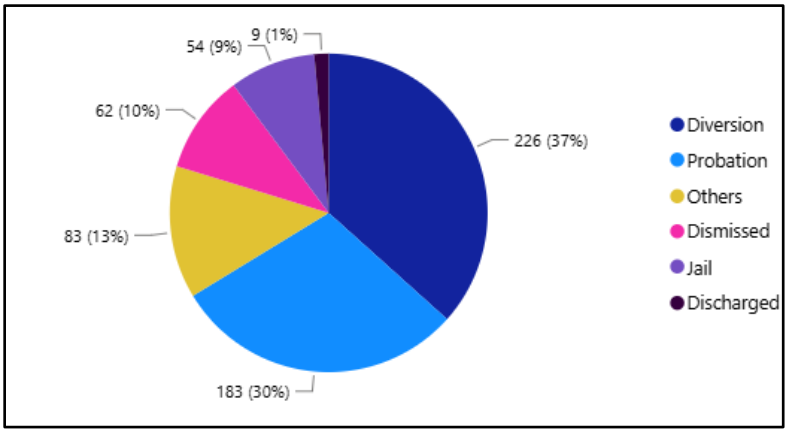
*Currently operating SRDs

SRDs typically target low-level, non-person charges. Of the 1,249 cases, approximately 3.0% were probation violations, 62.1% were misdemeanors, 33.0% were minor felonies, and 1.9% were major felonies. Some case categories are not available for Coos and Marion counties.

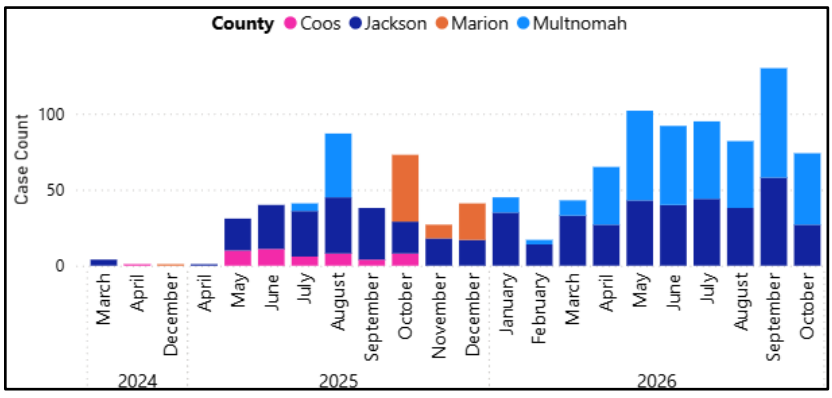
Of the 616 resolved cases, approximately 37% entered diversion programs, either DUII diversion or DA conditional diversion, 30% of defendants received probation, 9% of defendants received jail time, 10% were dismissed, and 1% were discharged. 13% resolved in another manner, including reduction to violation, probation continued or revoked, transfer to specialty court, or sentencing to the Department of Corrections.

Of the 426 cases not resolved through the SRD, 113 were assigned to an OTD attorney to move forward outside the SRD after the client elected to opt out of the docket. In 313 cases, the client opted out of the docket and chose to wait for a court-appointed attorney.

SRD Case Sentencing



SRD Cases by County Over Time



DOUGLAS

Unrepresented Report

October 2026

Unrepresented Numbers

Between September and October, the number of in-custody individuals increased by 3, and out-of-custody pretrial individuals decreased by 36, or 31.6%.

Category	10/31/25	9/30/26	10/31/26
Out-of-Custody	202	114	78
In-Custody	9	3	6
Probation Viol.	7	3	4
Non-Criminal	5	3	2
Total	**223**	**123**	**90**

Providers

Douglas county has four attorneys participating in the Exceed MAC Program. Contractors took 185 cases in September and are currently at 92.2% MAC utilization.

Provider Type	MAC Utilization
Consortia	92.8%
Firms/ Individuals	85.9%
PD	94.1%
All	**92.2%**

OPDC Actions

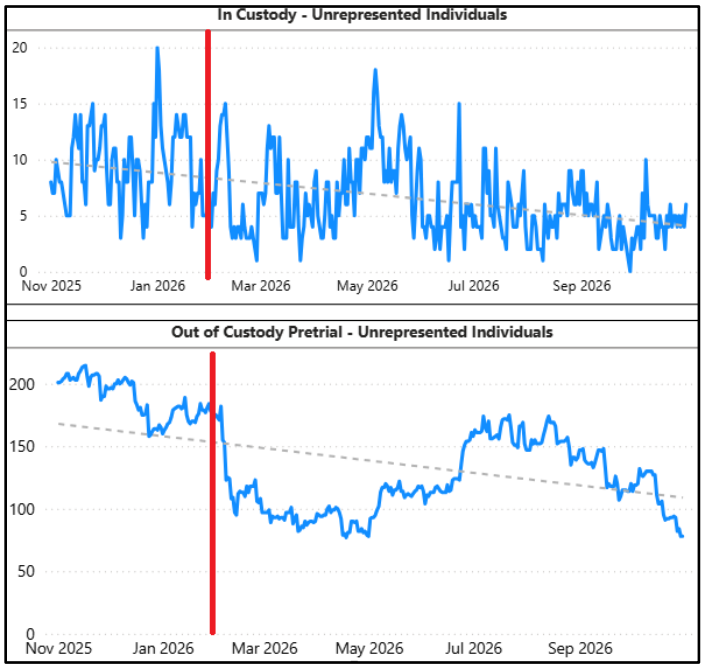
Since July 1, 2025, OTD has taken 55 cases in Douglas County. In October, OPDC assignment coordinators identified counsel for 59 unrepresented cases, including 9 cases subject to *Betschart*.

Roberts Impact

Douglas County has refiled 56% of the cases dismissed under *Roberts*, representing the highest refiling rate among all crisis counties. Of the 269 *Roberts* dismissals, 150 have been refiled. As of the end of October, 14% of the refiled *Roberts* cases were currently on the unrepresented list.

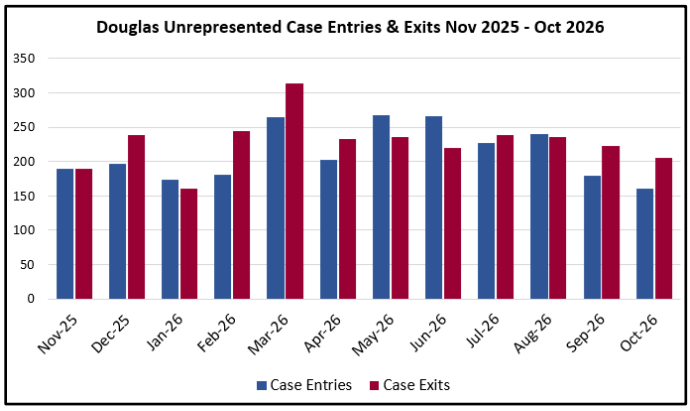
Unrepresented Trend Lines

The total number of unrepresented individuals is down by 59.6% compared to October 31, 2025. The red line indicates the date the *Roberts* decision was released.



Entries and Exits

In the past 12 months in Douglas County, 2,548 cases entered unrepresented status, and 2,737 cases exited unrepresented status. The county has seen more exits than entries in 7 of the past 12 months.



JACKSON

Unrepresented Report

October 2026

Unrepresented Numbers

Between September and October, the number of in-custody individuals decreased by 18, and out-of-custody pretrial individuals increased by 19, or 8.3%.

Category	10/31/25	9/30/26	10/31/26
Out-of-Custody	461	229	248
In-Custody	29	25	7
Probation Viol.	55	20	16
Non-Criminal	29	10	3
Total	**574**	**284**	**274**

Providers

Jackson County has nine attorneys participating in the Exceed MAC Program. Contractors took 319 cases in September and are at 100.2% MAC utilization.

Provider Type	MAC Utilization
Consortia	99.7%
Firms/Individuals	111.3%
PD	100.4%
All	**100.2%**

Oregon Trial Division

Since July 1, 2025, OTD has taken 1,157 cases in Jackson County. For the month of October 2026, the OTD Southern regional office took 91 cases in the county.

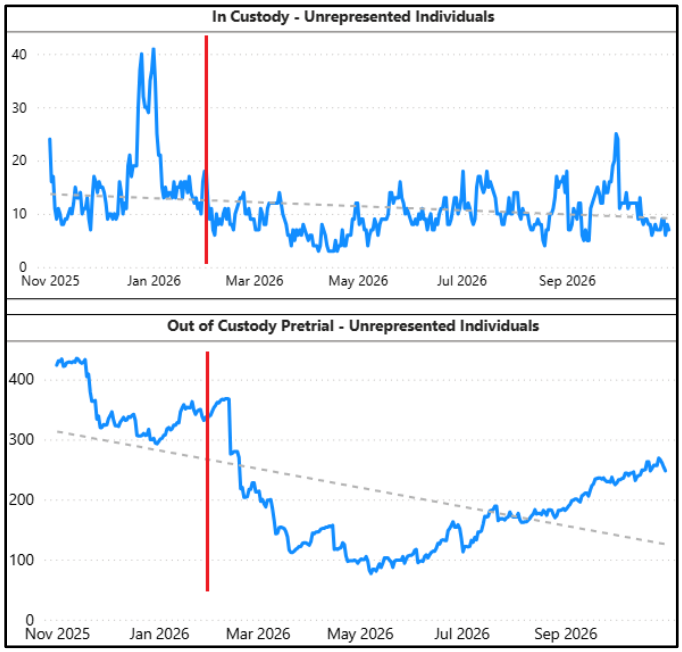
Case Assignments

In October, OPDC assignment coordinators identified counsel for 96 unrepresented cases, including 11 cases subject to *Betschart*. Below are unrepresented case assignments made by OPDC.

Provider Type	September	October	Total
Contractor	16	55	258
Hourly	46	36	429
OTD	4	6	114
Total	**66**	**96**	**790**

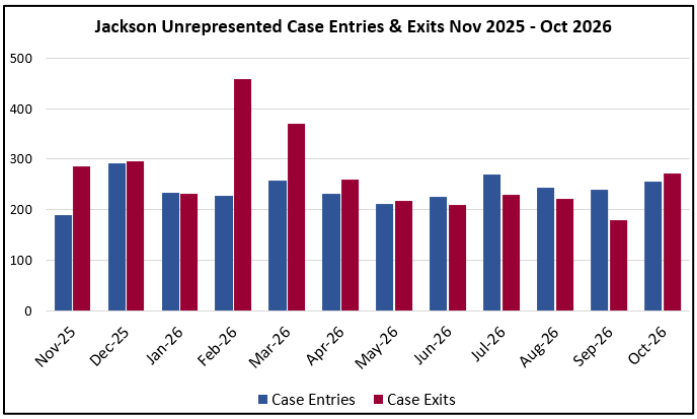
Unrepresented Trend Lines

The total number of unrepresented individuals is down by 52.3% compared to October 31, 2025. The red line indicates the date the *Roberts* decision was released.



Entries and Exits

In the past 12 months in Jackson County, 2,879 cases entered unrepresented status, and 3,230 cases exited unrepresented status. The county has seen more exits than entries in 7 of the past 12 months.



MULTNOMAH

Unrepresented Report

October 2026

Unrepresented Numbers

Between September and October, the number of in-custody individuals decreased by 15, and out-of-custody pretrial individuals decreased by 136, or 28.2%.

Category	10/31/25	9/30/26	10/31/26
Out-of-Custody	1,141	482	346
In-Custody	74	54	39
Probation Viol.	24	9	9
Non-Criminal	3	1	1
Total	**1,242**	**546**	**395**

Providers

Multnomah County has two attorneys participating in the Exceed MAC Program. Contractors took 1,050 cases in September and are at 91.7% MAC utilization.

Provider Type	MAC Utilization
Consortia	88.5%
Firm	89.7%
DRO	77.1%
MPD	94.7%
MDI	91.1%
All	**91.7%**

Oregon Trial Division

Since July 1, 2025, OTD has taken 1,073 cases in Multnomah County.

Region	Sept	Oct	Total
Central	95	53	490
Northwest	54	66	582
Southern	0	0	1
Total	**149**	**119**	**1073**

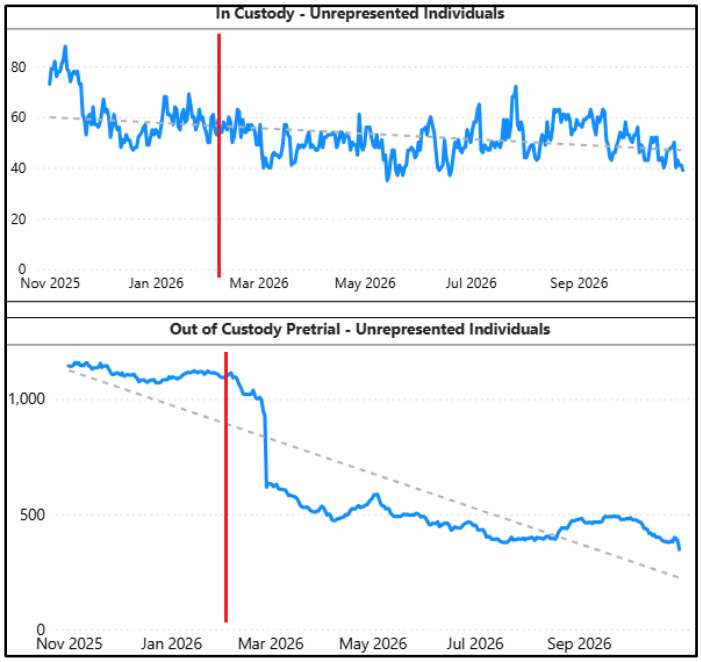
Case Assignments

In October, OPDC assignment coordinators identified counsel for 205 unrepresented cases, including 84 cases subject to *Betschart*. Below are unrepresented case assignments made by OPDC assignment coordinators in October.

Provider Type	Sept	Oct	Total
Contractor	7	24	174
Hourly	159	135	1817
OTD	17	46	309
Total	**183**	**205**	**2282**

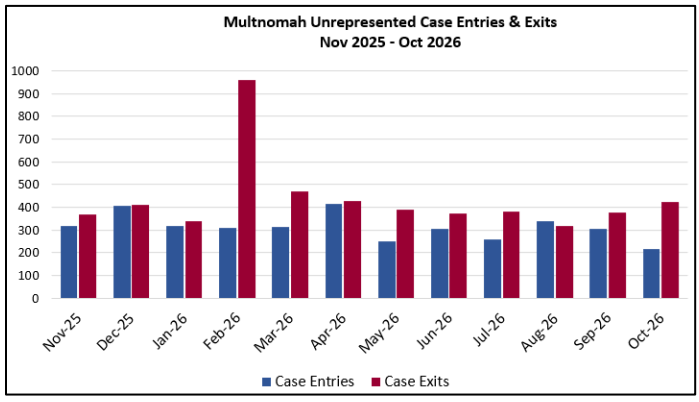
Unrepresented Trend Lines

The total number of unrepresented individuals is down 68.2% compared to October 31, 2025. The red line indicates the date the *Roberts* decision was released.



Entries and Exits

In the past 12 months in Multnomah County, 3,755 cases entered unrepresented status, and 5,232 cases exited unrepresented status. The county has seen more exits than entries in 11 of the past 12 months.



WASHINGTON

Unrepresented Report
October 2026

Unrepresented Numbers

Between September and October, the number of in-custody individuals decreased by 6, and out-of-custody pretrial individuals decreased by 10, or 12%.

Category	10/31/25	9/30/26	10/31/26
Out-of-Custody	414	83	73
In-Custody	18	9	3
Probation Viol.	49	6	1
Non-Criminal	5	0	0
Total	**486**	**98**	**77**

Providers

Washington County has seven attorneys participating in the Exceed MAC Program. Contractors took 1,239 cases in September and are at 100.6% MAC utilization.

Provider Type	MAC Utilization
Consortia	106.4%
Firms/Individuals	107.3%
PD	94.2%
All	**100.6%**

Oregon Trial Division

Since July 1, 2025, OTD has taken 167 cases in Washington County.

Region	Sept	Oct	Total
Central	4	3	58
Northwest	4	2	109
Total	**8**	**5**	**167**

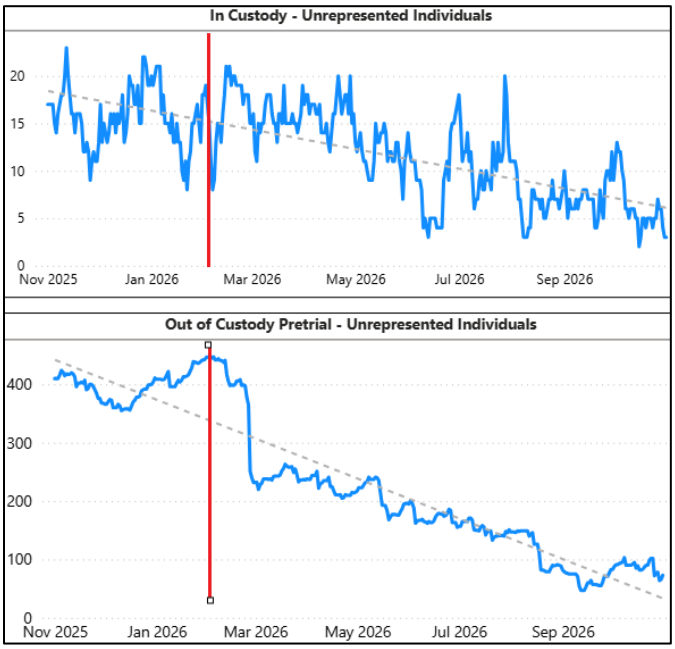
Case Assignments

In October, OPDC assignment coordinators identified counsel for 106 unrepresented cases, including 21 cases subject to *Betschart*. Below are unrepresented case assignments made by OPDC assignment coordinators in October.

Provider Type	Sept	Oct	Total
Contractor	24	31	275
Hourly	81	73	1473
OTD	5	2	131
Total	**110**	**106**	**1861**

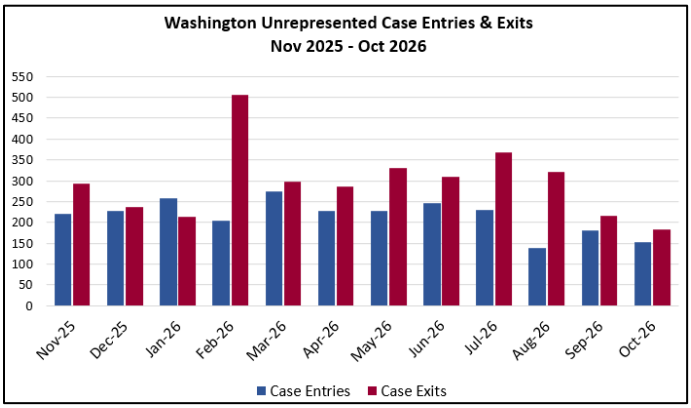
Unrepresented Trend Lines

The total number of unrepresented individuals is down 84.2% compared to October 31, 2025. The red line indicates the date the *Roberts* decision was released.



Entries and Exits

In the past 12 months in Washington County, 2,585 cases entered unrepresented status, and 3,558 cases exited unrepresented status. The county has seen more exits than entries in 11 of the past 12 months.



Date: **November 18, 2026**

To: **Robert Harris, Chair of OPDC**
Susan Mandiberg, Vice Chair of OPDC
OPDC Commissioners

Cc: **Kenneth Sanchagrin, Executive Director**
Kimberley Freeman, Data and Policy Manager
Heather Kessinger, Senior Policy Analyst

From: **Jennifer Bell, Senior Policy Analyst**

Re: **Delegation of Rulemaking Authority Revised Rule**

Nature of Presentation: Briefing

Background:
The agency revised the proposed Delegation of Rulemaking Authority rule to align with guidance from the Oregon Department of Justice after comments were received during the proposed rule's public comment period. A draft of the revised rule was submitted to the Board and the Rules Advisory Committee (RAC) for their review. This resulted in additional revisions to the rule.

These revisions include:

- Reordering the sentences for clarity and readability.
- Ensuring the Board retains rulemaking authority, by majority vote.

All revisions to the rule have been minor, were completed to align with guidance and in consideration of comments received.

The agency recommends that the Board review the revised Delegation of Rulemaking Authority rule.

At the December meeting, the Board's agenda will include an action item to vote on three rules. These include:

- Delegation of Rulemaking Authority
- Model Rules for Rulemaking
    - Presented to the board in June, no public comment received, no revisions made.

- Notice of Proposed Rulemaking and Adoption of Temporary Rules
    - Presented to the board in June, no public comment received, no revisions made.

Fiscal Impact:
None.

Recommendation:
Review the revised Delegation of Rulemaking Authority rule.

Proposed Motion:
None.

Chapter 404
Oregon Public Defense Commission

404-025-0200
Delegation of Rulemaking Authority (Revised)

The Commission may, by majority vote, empower an employee to engage in the ministerial acts necessary to open rulemaking, close rulemaking, and file rules adopted, amended, repealed, or suspended by a majority vote of the Commission. The employee will be identified on a Delegation of Authority form filed with the Secretary of State (SOS) Administrative Rules Unit, and such delegation will continue until it is revoked by the Commission or the person leaves Commission employment. The Board retains the sole authority, by majority vote, to consider and adopt rulemaking actions.

Statutory/Other Authority: ORS 151.216, ORS 183.325
Statutes/Other Implemented: ORS 151.216, ORS 183.325

404-025-0200 Delegation of Rulemaking Authority (Original)

Any member or employee of the Commission who is identified on a completed Delegation of Authority form signed by the Executive Director, the Deputy Director, or Chair of the Commission and filed with the Secretary of State (SOS), Administrative Rules Unit, is vested with the authority to adopt, amend, repeal, or suspend administrative rules as provided on that form until such delegation is revoked by the Executive Director, the Deputy Director or Chair of the Commission, or the person leaves employment with the Commission.

Summary of Changes to the Delegation of Rulemaking Authority Rule

- Reorder the sentences for clarity and readability.
- Ensure the Board retains rulemaking authority, by majority vote

404-025-0200 Delegation of Rulemaking Authority (Tracked Changes)

Please note: Deleted text is: ~~**highlighted yellow, bolded, and stricken**~~. Added text is: **highlighted yellow, bolded, and underlined**.

~~**Any member or employee of t**~~**T**he Commission ~~**who is identified on a completed Delegation of Authority form signed by the Executive Director, the Deputy Director, or Chair of the Commission and filed with the Secretary of State (SOS), Administrative Rules Unit, is vested with the authority**~~**may, by majority vote, empower an employee to engage in the ministerial acts necessary to open rulemaking, close rulemaking, and file rules** ~~**to**~~ adopt**ed**, amend**ed**, repeal**ed**, or suspend**ed** ~~**administrative rules**~~**by a majority vote of the Commission. The employee will be identified on a Delegation of Authority**~~**as provided on that**~~ form **filed with the Secretary of State (SOS) Administrative Rules Unit, and** ~~**until**~~ such delegation **will continue until it** is revoked by the ~~**Executive Director, the Deputy Director or Chair of the**~~ Commission~~,~~ or the person leaves ~~**employment with the**~~ Commission **employment**. **The Board retains the sole authority, by majority vote, to consider and adopt rulemaking actions.**

Statutory/Other Authority: ORS 151.216, ORS 183.325
Statutes/Other Implemented: ORS 151.216, ORS 183.325

Oregon Public Defense Commission

Date: November 18, 2026

To: Rob Harris, OPDC Chair
Susan Mandiberg, OPDC Vice-Chair
OPDC Commissioners

Cc: Ken Sanchagrin, Executive Director

From: Lisa Taylor, Government Relations Manager

RE: Comprehensive Public Defense Report Draft Review Briefing

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Summary:
Senate Bill 337 (2023) directs the Oregon Public Defense Commission to submit a Comprehensive Public Defense Report to the Legislature annually from 2024-2026, and then biennially from 2027-2035.

The attached report is a DRAFT and is for review only. You will find placeholder data throughout, and any data contained within the draft should be considered preliminary. Likewise, any content in the draft should not be relied upon and is subject to change. The draft will also undergo a final typographic edit for spelling and grammar before submission. OPDC will be submitting the final report, with verified data and content, by December 1, 2026.

Most of the report updates the previous Comprehensive Report submitted in December 2026. The following sections contain significant changes:

- Newly added Unrepresented Persons Update
- Performance and Oversight
- Future Work

Recommendation:
Staff is requesting that Commissioners review the draft and provide feedback on content and structure. Questions to ask could include:
Is there something missing?
Does the report adequately answer the report requirements?
Does any of the content seem misleading or in need of more context?
Does the report raise any unanswered questions that you feel should be addressed?

THIS DOCUMENT IS A DRAFT VERSION FOR REVIEW PURPOSES ONLY. ALL DATA IS SUBJECT TO CHANGE. THIS REPORT HAS NOT UNDERGONE FINAL EDITS. THE CONTENT OF THIS REPORT SHOULD NOT BE RELIED UPON.

OPDC WILL BE SUBMITTING THE FINAL REPORT TO THE LEGISLATURE BY DECEMBER 1, 2026, WITH FINALIZED DATA AND INFORMATION.

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Oregon Public Defense Commission

Comprehensive Public Defense Report

Per Senate Bill 337 (2023)

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Report IV

November 9, 2026

NATURE OF THE REPORT

Section 98 of SB 337 (2023) states:

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

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

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

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

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

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

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CONTENTS

Nature of the Report ii
Executive Summary iv
Public Defense in Oregon 1
System Structure and Provider Types 1
Trial Level Representation 1
Appellate Representation 3
Public Defense forecast and contracts 3
Unrepresented Persons Update 6
Performance and Oversight 7
Reorganization: Strengthening Oversight, Accountability, and Public Defense Quality 7
Compliance & Performance: Quality Public Defense 7
Defense Services: Contractual Oversight & Support 9
Oversight of the Oregon Trial Division 10
Financial Projections 11
Future Work 12
Appendix A: Contracted Provider Details 14

DRAFT

EXECUTIVE SUMMARY

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

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

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

Performance and Oversight. OPDC reorganized its structure in 2026 to better align agency responsibilities with its growing operations, clarify accountability, and strengthen its ability to ensure high-quality public defense services statewide. The central change is a clearer separation between the administration of public defense services and independent evaluation of system performance. The newly established Compliance & Performance (C&P) Division, reporting directly to the Executive Director, will focus on independent oversight and quality improvement. Through research and data analysis, jurisdictional and organizational reviews, and voluntary staff assistance visits, C&P will evaluate system performance, identify deficiencies, and recommend improvements consistent with statewide standards and statutory obligations. The Defense Services Division (DSD) will consolidate operational responsibilities, including case assignment coordination, provider relations, contract compliance, and preauthorized expenses. Its role is to support providers, monitor contractual obligations, address capacity challenges, and ensure eligible individuals are connected with counsel. This reorganization does not create new enforcement authority.

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Rather, it clarifies how OPDC can better exercise its existing authority, strengthen oversight, improve coordination, and promote accountability across Oregon's public defense system.

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

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

Together, these efforts reflect a maturing public defense infrastructure undergoing significant modernization. Through enhanced forecasting, clearer standards, expanded oversight mechanisms, and diversified delivery models, OPDC is working to build a more stable, accountable, and equitable system capable of meeting Oregon's growing need for public defense services.

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SYSTEM STRUCTURE AND PROVIDER TYPES

TRIAL LEVEL REPRESENTATION

Public defense in Oregon is organized through three main channels: capacity contracts with external providers, hourly contracts with private bar lawyers, and the Oregon Trial Division (OTD). Capacity contract providers are organizations that have a contract with OPDC to provide public defense using the Maximum Attorney Caseload (MAC) model (apart from the Parent Child Representation Program, discussed later). They include non-profits, consortia, and individuals or law firms. Non-profit providers are organizations that employ full-time public defenders in a not-for-profit law firm who do not take cases outside of their OPDC contract. Consortia providers, in contrast, are private attorneys or law firms that contract with OPDC as a group to provide public defense services. Some consortia attorneys take cases from OPDC on a full-time basis, although most consortia members also maintain a separate client retained practice in addition to their work with the state. Individuals/law firms differ from consortia only in that they do not band together to provide public defense services.

OPDC's 2025-2027 contract cycle began October 1, 2025 and runs through June 30, 2026. As of October 1, 2026 OPDC has capacity contracts with providers (excluding hourly providers) totaling xxx.xx MAC. When the xx MAC for the Oregon Trial Division is included, the total statewide MAC for adult, juvenile, and PRCP cases is xxx.xx . The breakdown of MAC by provider types is reported in Table 1 along with the relative percentage, as measured by MAC, that each provider type is responsible for in Oregon as of the October 1, 2026. A more detailed breakdown of MAC included in the 2025-27 contracts is available in Appendix A.

Table 1. Statewide MAC by Provider Type†

Provider Type	MAC	Statewide MAC %
Non-Profit		
Consortia		
Law Firms/Ind.		
OPDC Trial Div.		
Total		

† Calculated using provider contracted MAC as of October 1, 2026 (subject to change).

As shown in Table 1, among non-hourly providers, consortia account for almost half of statewide capacity, followed by non-profit providers, who account for over one-third. Law firms and individuals are responsible for nearly xx% of statewide coverage. The Oregon Trial Division (OTD), which was formed in December 2023 following the passage of SB 337, represents xx% of non-hourly provider capacity. This is an increase of XX% from October 2025. OTD consists of full-time public defenders employed by the state who operate in three regions, with offices in the Portland metro area, Salem, and Medford.

OTD and contracted providers, with the exception of the Parent Child Representation Program, operate under the MAC workload model, which sets caseload expectations for full-time public defenders. Table 2 shows current maximum caseloads, tied to a baseline of 300 misdemeanor cases taken annually. All other caseloads are weighted against this baseline at both the adult and juvenile levels. Using the MAC as a guide, attorneys must divide their total annual MAC across twelve months (this does not apply to murder or Jessica's Law cases, as they cannot be divided like other case types). This equates to, for example, 25

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misdemeanors, 13.75 minor felonies, or 3.75 Ballot Measure 11 cases per month. Finally, while MAC contemplates a full-time caseload, providers, particularly consortia members, can elect to contract with OPDC for less than a full-time caseload to reserve a portion of their workload for non-state-funded, non-public defense cases. In these instances, MAC caseloads are pro-rated based on the proportion of a full FTE the attorney elects to contract for with OPDC. A 0.5 FTE consortia member, for instance, has a MAC of 150 misdemeanors or their equivalent as outlined in Table 2.

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

Table 2. Maximum Attorney Caseloads and Case Weight

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

As of October 1, 2026, OPDC has xxx hourly attorneys who have signed a contract for the 2025-27 funding cycle. After signing a contract, OPDC verifies hourly providers' qualifications. Hourly attorneys bill OPDC for the time spent on their cases, providing OPDC with data on the effort required to close different types of cases.

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

With the increase in hourly cases and improvements in data collection, OPDC has found that providing public defense on an hourly basis is an expensive prospect. Particularly with the enhanced rates of the THIP program. As the number of unrepresented persons decreases, OPDC would like to rely on hourly providers less. The agency is working to ensure that cases are assigned to contracted providers with sufficient capacity or the Oregon Trial Division before being assigned hourly.

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

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

APPELLATE REPRESENTATION

OPDC's Appellate Division handles most criminal appellate matters and works to ensure high-quality representation for individuals entitled to publicly funded legal counsel in appellate matters. The division's attorneys represent individuals on direct appeal in criminal cases, parole matters, juvenile dependency and termination-of-parental-rights cases, and juvenile delinquency cases. It protects not only clients' constitutional and statutory rights but also contributes to the development of Oregon law and the integrity of the broader justice system.

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

As October 1, 2025, the Criminal Appellate Section consisted of xx attorneys and nine support staff. From July 1, 2025, to October 1, 2026, they managed a workload of nearly xxxx referrals and over xxxx notices of appeal, ultimately filing more than xxx briefs. Attorneys presented xxx arguments before the Oregon Court of Appeals and xx before the Oregon Supreme Court. The Juvenile Appellate Section, led by its own chief defender, handled appeals in juvenile dependency, termination of parental rights, and juvenile delinquency cases—matters often involving voluminous records and strict statutory timelines. In addition to the chief defender, the section includes x attorneys and one paralegal who collectively filed xxx notices of appeal, xxx opening briefs, and xx reply briefs and presented xx oral arguments before the Court of Appeals. In total, the Court of Appeals issued xx opinions in juvenile cases this year, and the Oregon Supreme Court issued one. Juvenile matters require expedited review and exceptional attention to detail, given their impact on children and families.

PUBLIC DEFENSE FORECAST AND CONTRACTS

Historically, OPDC was solely responsible for forecasting demand for public defense services over a given biennium and ensuring sufficient provider capacity to meet local needs. With the passage of SB 337 (2023), however, responsibility for forecasting shifted to the Department of Administrative Services Office of Economic Analysis (DAS OEA). Under SB 337 (2023), DAS OEA must issue a state public defense

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population forecast, including expected populations of adults and juveniles eligible for appointed counsel. Similar to other forecasts, including those related to Department of Corrections and Oregon Youth Authority populations, DAS OEA is required to release the results of its analyses twice per year on April 15 and October 15. As with other forecasts, the data provided by DAS OEA are statutorily required for the agency to use in the budget development process.

OPDC, the Criminal Justice Commission (CJC), the Oregon Judicial Department (OJD), and other partners collaborate with DAS OEA to review the forecast methodology, data inputs, and how the forecast informs contracting and budgeting. OEA released its first public defense forecast on April 15, 2024, and its most recent forecast on October 15, 2026, which will be used in developing the Governor's Recommended Budget (GRB). With six forecasts completed, the public defense forecast methodology has been well established. While it will continue to improve over subsequent forecasts, recent forecasts have been relatively stable.

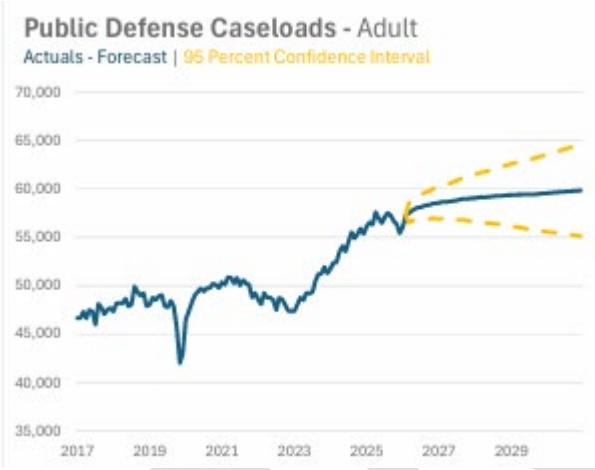

Figure 1. Public Defense Caseload Forecast for Adults[2]

As shown in Figure 1, the most recent forecast projects public defense caseloads increasing through FY 2031. Table 3 presents data from the latest eligibility forecast compared with the prior forecast from earlier in the year. Overall, as shown in Table 3, there is a .07 percent decrease in projected cases compared to the previous forecast.

To determine the number of attorneys needed to cover projected caseloads across the state, OPDC staff utilize the OEA forecast, broken down by county, and convert those figures into estimates of the MAC needed in each jurisdiction. To supplement the forecast, staff also review data reported by providers and incorporate local knowledge to add qualitative context to the quantitative analysis. Using this information, OPDC staff develop jurisdiction-level proposals to guide planning for the 2027–29 contract cycle. Contractors then work with OPDC staff to refine these proposals and submit plans outlining their anticipated staffing levels and resource needs for the biennium. This process will culminate in the 2027-29 contracts.

[2] Figure 1 is part of Chart 6, "Margin of Error" in the 2026 October Oregon Public Defense Caseload Forecast, which can be accessed here.

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Table 3. Reproduction of Public Defense Forecast - 2025-27 Eligibility Comparison from the October 2026 Public Defense Forecast

		Apr 2026 Fcst	Oct 2026 Fcst	Change	Percent
Adult	Felony	44,453	43,521	-932	-2.1%
	Murder	251	264	13	5.2%
	Jessica's Law	231	223	-8	-3.5%
	Measure 11	3,813	3,914	101	2.6%
	Major Felony	8,033	8,440	407	5.1%
	Minor Felony	32,124	30,679	-1,445	-4.5%
	Misdemeanor	96,089	95,878	-211	-0.2%
	Probation Violation	27,402	27,599	196	0.7%
	Treatment Court	1,744	1,744	0	0.0%
	Appellate	3,529	3,476	-53	-1.5%
	Post-Conviction Relief	593	636	43	7.2%
	Habeas Corpus	384	373	-11	-2.8%
	Civil Commitment	7,386	7,126	-259	-3.5%
	Total	**181,579**	**180,352**	**-1,227**	**-0.7%**
Juvenile	Dependency†	19,522	18,900	-622	-3.2%
	Delinquency‡	5,554	5,709	155	2.8%
	Probation Violation	3,913	3,986	74	1.9%
	Treatment Court	388	388	0	0.0%
	Appellate	584	691	107	18.2%
	Total	**29,961**	**29,675**	**-287**	**-1.0%**
Total New Eligible Cases		**211,541**	**210,027**	**-1,514**	**-0.7%**

† Includes Parents and Guardians

‡ Includes Measure 11, Murder, and All Others

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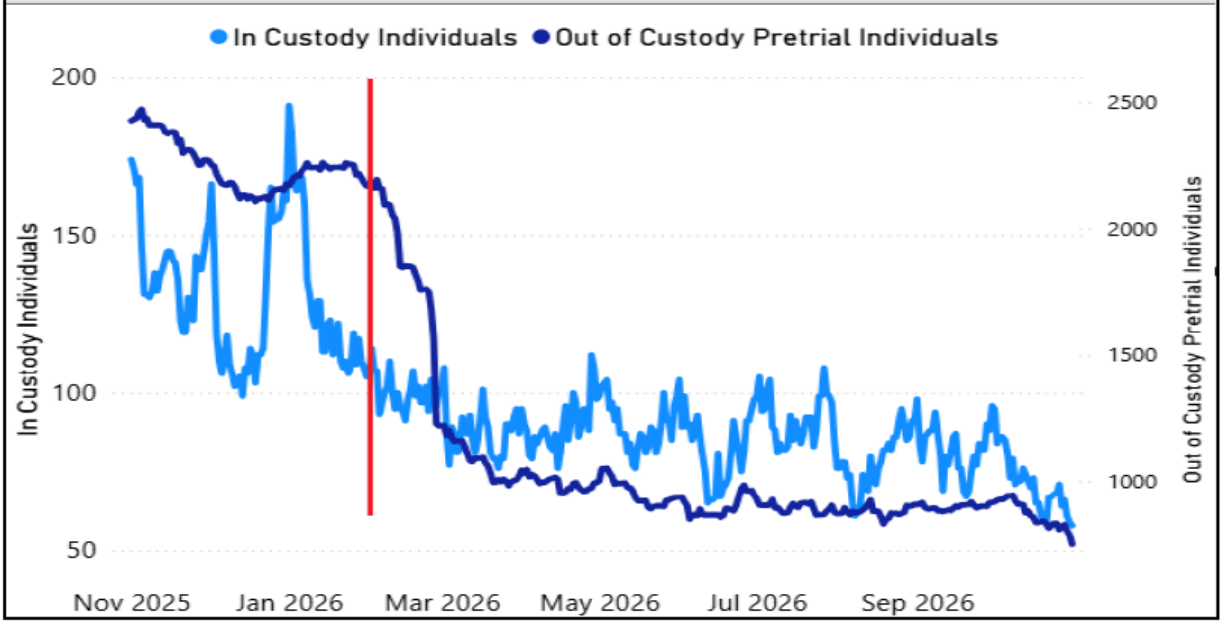
UNREPRESENTED PERSONS UPDATE

As of October 31, 2026, there were 897 indigent individuals statewide who needed an attorney but could not be provided with one and were not in warrant status. While the number of unrepresented persons remains unacceptably high, it has decreased significantly over the past 12 months. Figure 2 shows the trend line for both in-custody and out-of-custody pretrial individuals over the past 12 months. The red line indicates when the *Roberts* decision was released. As of October 31, 2026, the number of out-of-custody pretrial unrepresented individuals is down by 69.3% compared to October 31, 2025, while in-custody unrepresented individuals are down by 67.4%. Marion and Coos counties made such significant progress that they are no longer considered "crisis counties," as they nearly eliminated unrepresented individuals and have maintained low numbers.

Figure 2: Pretrial Unrepresented Individuals Trends

Source: OJD Unrepresented Data



In February 2026, the *State v. Roberts* opinion was released, in which the Oregon Supreme Court ruled that cases must be dismissed without prejudice when the state fails to provide counsel to an eligible defendant for more than 60 consecutive days for misdemeanors and 90 consecutive days for felonies. This resulted in nearly 1,300 cases being dismissed under *Roberts* in February. Since the initial February wave, *Roberts* dismissals have leveled off at an average of 157 per month. Although a portion of the unrepresented decrease can be attributed to the Roberts decision, most of the decline is due to non-*Roberts* factors, such as identifying counsel or other non-*Roberts*-related dismissals.

Based on these trends, progress is clear statewide. OPDC releases monthly Unrepresented Reports covering unrepresented numbers statewide and in crisis counties, Roberts dismissals and refiles, and other data relevant to unrepresented cases. Those reports can be found here.

PERFORMANCE AND OVERSIGHT

REORGANIZATION: STRENGTHENING OVERSIGHT, ACCOUNTABILITY, AND PUBLIC DEFENSE QUALITY

Over the past several years, OPDC has experienced tremendous growth. As the agency continues to mature, its organizational structure must evolve alongside it to ensure responsibilities are clearly defined, collaboration is strengthened, and each team is positioned to do the work it is best suited for. In order to better serve its mission to deliver high-quality public defense services throughout Oregon, OPDC reorganized over the summer and into the fall of 2026. The reorganization aims to clarify responsibilities, align functions with legislative intent, and improve coordination across the agency. Most importantly, the changes establish a clearer distinction between administering the public defense delivery system and evaluating its quality and performance.

A central component of the reorganization is transitioning Trial Support & Development, formerly the Compliance, Accountability, and Performance (CAP) function, into the Compliance & Performance Division (C&P), which will report directly to the Executive Director. This division will focus on quality improvement through objective evaluation and systematic review. Elevating this function to report directly to the Executive Director reinforces public defense quality and performance as agency-wide priorities.

The reorganization further clarifies the division of responsibilities between compliance and operations. The newly created Defense Services Division (DSD) will serve as a singular point of contact for public defense providers. It will combine responsibilities for provider relations, capacity contract administration, hourly appointments, and statewide capacity planning, with pre-authorized and court-mandated expenses. Uniting these units under one section will better facilitate communication and streamline provider services.

Additional changes aim to improve organizational alignment throughout the agency. Internal Audit will report directly to the Executive Director, increasing its independence from the functions it reviews. Policy & Data will continue to lead policy development, governance, standards, business processes, and data analysis. A new Office of Legal Resource Management will provide legal operational guidance and coordinate legal resources across the agency.

Reorganization does not guarantee better outcomes or create new enforcement powers; it clarifies how OPDC can use existing authority to monitor statewide performance, identify deficiencies, and respond. As the agency matures, this structure aims to strengthen accountability, support improvement, and advance its mission to provide constitutionally competent, effective representation to eligible people. This alignment better positions each division to focus on its core expertise while continuing to work collaboratively in support of our shared mission.

COMPLIANCE & PERFORMANCE: QUALITY PUBLIC DEFENSE

The Compliance & Performance (C&P) Division provides independent oversight of Oregon's public defense system. Its role is to help ensure that people who qualify for public defense receive consistent, high-quality legal representation across the state. This work supports OPDC's responsibility under ORS 151.216 to ensure effective legal counsel. The division evaluates the public defense system, identifies strengths and areas for improvement, and promotes best practices to improve the quality and effectiveness of legal services.

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During the 2027–29 biennium, OPDC will transition the Resource Counsel Division into the new Compliance & Performance Division. This organizational change will create a dedicated, independent division responsible for evaluating Oregon's public defense system and identifying opportunities for improvement. Separate from the divisions that administer and manage public defense services, the Compliance & Performance Division will provide objective analysis of system performance, assess whether services align with established standards and goals, and develop recommendations to strengthen the quality, effectiveness, and consistency of public defense statewide.

The division will carry out its oversight responsibilities through three primary functions:

- Research and data analysis,
- Jurisdictional and organizational reviews, and
- Staff assistance visits.

Together, these functions provide a comprehensive approach to monitoring performance, identifying systemic challenges, and supporting systemic improvements across Oregon's public defense system.

Research and Data Analysis will allow OPDC to identify, track, and evaluate trends and outcomes throughout the system. Staff will analyze statewide programs, pilot initiatives, and other inputs to evaluate their impact on quality. This work will help the agency make informed decisions about program effectiveness, identify emerging challenges, and better understand differences in service delivery across jurisdictions.

Jurisdictional and Organizational Reviews will provide a structured, data-informed assessment of public defense systems. C&P attorneys and research staff will examine compliance with OPDC's performance standards, assess overall system performance, and identify areas where corrective action or additional support may be necessary. These reviews are intended to evaluate local public defense system efficiency and quality consistent with the agency's statutory responsibilities.

At the request of public defense providers, the division may conduct Staff Assistance Visits to support organizational effectiveness and continuous improvement. These visits are collaborative, voluntary engagements designed to help providers assess operations, identify challenges, and explore opportunities to strengthen service delivery. Activities may include reviewing organizational practices, workflows, policies, and internal processes; meeting with leadership and staff; and sharing observations, best practices, and recommendations. The goal is to provide practical guidance and technical assistance that helps organizations enhance their capacity, improve outcomes, and promote the effective delivery of public defense services.

Collectively, these functions establish a more comprehensive approach to statewide oversight. Rather than relying primarily on periodic assessments or responding to individual compliance concerns, OPDC will have dedicated capacity to evaluate system performance, identify risks, and work with providers to collaboratively address deficiencies. The division's work will help promote greater consistency and accountability across jurisdictions while supporting providers in meeting established expectations.

Through independent evaluation, evidence-based recommendations, and continuous improvement efforts, the Compliance & Performance Division will strengthen public confidence in Oregon's public defense system and help ensure high-quality representation for clients statewide. Its work will help OPDC move

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beyond tracking service delivery and toward independently evaluating the performance of the public defense system, identifying opportunities for improvement, and assessing whether services consistently meet the state's constitutional and statutory obligations.

DEFENSE SERVICES: CONTRACTUAL OVERSIGHT & SUPPORT

The Defense Services Division (DSD) is responsible for supporting the effective administration and delivery of public defense services throughout Oregon. Its work focuses on the operational functions necessary to ensure that individuals eligible for court-appointed counsel are connected with representation, public defense providers have the support necessary to fulfill their contractual responsibilities, and case-related services and expenses are processed efficiently.

The creation of the division is part of OPDC's broader organizational restructuring for the 2027–29 biennium. It brings together several functions previously housed within the Compliance, Audit, and Performance Division (CAP), establishing a dedicated division focused on the operational administration of public defense services. These responsibilities include case assignment coordination, provider liaison services, contract compliance, and the administration of preauthorized expenses.

A central responsibility of the division is case assignment coordination. OPDC must ensure that individuals entitled to public defense services receive representation, including those who are awaiting appointment of counsel. Case assignment coordinators work to identify available provider capacity and secure representation for unrepresented individuals. Since July 1, 2025, they have identified counsel for 10,216 unrepresented cases, including xxxx time-sensitive *Betschart*[3] cases. They also work collaboratively with other agency staff to ensure that local jurisdictions have sufficient resources to meet their representation needs. As statewide capacity stabilizes, this work will increasingly include quality assurance activities, such as reviewing case assignments and provider reports to verify that reported cases correspond with actual assignments and reconciling provider-submitted information with records maintained by the Oregon Judicial Department. These functions help ensure accurate reporting, appropriate case distribution, and effective use of available resources.

The division will also provide provider liaison services, supporting communication and coordination between OPDC and the organizations and attorneys responsible for delivering public defense services. Maintaining effective relationships with external providers is essential to understanding operational challenges, identifying capacity concerns, and addressing issues that may affect the availability of representation. Provider communication also supports the agency's ability to identify problems early and work collaboratively toward solutions.

Another important responsibility is contract compliance. The division will monitor whether external public defense providers are meeting their contractual obligations. When concerns arise, compliance staff work with providers to identify underlying issues, develop solutions, and document interventions. This approach

[3] In brief, *Betschart v. Washington County Circuit Court Judges* affirmed a preliminary injunction requiring the appointment of an attorney within seven days of an in-custody defendant's initial appearance. Failure to do so within the required timeline would result in the defendant's release from custody subject to reasonable release conditions imposed by the court.

is intended to maintain accountability while recognizing that providers may face operational or resource challenges that require agency assistance. Compliance activities will also incorporate OPDC's recently adopted performance standards, helping ensure that providers meet both quantitative and qualitative expectations.

The division will additionally oversee preauthorized expenses (PAE), which provide funding for reasonable and necessary support services and expenses associated with public defense representation. These services help attorneys adequately investigate and prepare cases and address the individual needs of their clients. PAE staff review and process requests, screen submissions for errors, and ensure that information entered into agency systems is accurate. Timely and accurate processing is important to ensuring attorneys have access to the resources necessary to provide effective representation.

Taken together, these responsibilities position the Defense Services Division as an important operational link between OPDC and the statewide network of public defense providers. Its work supports the assignment of counsel, administration of provider relationships, enforcement of contractual expectations, and availability of necessary case-related resources.

The division's creation also reflects a broader shift in how OPDC organizes its responsibilities. By separating operational administration and provider support from independent system oversight, the agency can establish clearer accountability, improve coordination, and ensure that each function has an appropriately defined purpose. While Compliance & Performance evaluates the effectiveness and quality of the statewide system, Defense Services focuses on the operational work necessary to keep that system functioning.

Ultimately, the Defense Services Division will help OPDC strengthen the administration of public defense services, respond to provider needs, and ensure that eligible individuals receive the representation and related support to which they are entitled.

OVERSIGHT OF THE OREGON TRIAL DIVISION

The Oregon Trial Division (OTD) comprises state-employed attorneys and support staff who provide trial-level defense services throughout the state. They primarily serve three regions: the Northwest, Central Valley, and Southern regions. The OTD currently has xx attorneys and 3 Chief Deputy Attorneys who manage the regional offices. As of October 31, 2026, the OTD has been assigned to xxxx cases statewide, xx percent of which originated from the unrepresented list. OTD has worked with courts and district attorneys to establish early resolution dockets for more efficient case processing and has managed over xxx time-sensitive *Betschart* cases. Data regarding the Trial Division can be found on the Trial Division Dashboard on OPDC's website.

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

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FINANCIAL PROJECTIONS

Table 5 provides OPDC's biennial financial forecast. The forecast column shows the projections if current spending continues for the remainder of the biennium. It also includes an assessment of divisions with significant variances.

Table 5. OPDC Biennial Financial Forecast by Agency Division

Division		LAB	Forecast	Variance
1.	Administrative Services Division			
2.	Adult Trial Division			
3.	Juvenile Trial Division			
4.	Parent Child Representation Program			
5.	Appellate Division			
6.	Compliance, Audit, Performance			
7.	Court Mandated Expenses			
8.	Debt Service			
9.	Executive			
10.	Preauthorized Expenses			
11.	Special Programs			
12.	Trial Representation			
Total				

Financial Projection narrative in process.

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FUTURE WORK

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

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

Since its inception, however, the MAC model has come under significant criticism. This criticism has come from multiple angles, whether from public defenders themselves or from court staff, judges, prosecutors, legislators, and budget writers. The Commission intended the MAC as a temporary fix for an unconstitutional pay-per-case system and did not plan for it to be a long-term solution. One of the primary limitations of the MAC model is that it is caseload-driven rather than workload-driven, because once contractors meet their MAC caseload requirements, they have little to no ability or incentive to take additional cases. Under other models, such as an open workload model or hourly compensation model, lawyers are compensated for time spent on cases, not merely the number of cases assigned to them.

Since 2019, the Commission has sought to adopt an alternative workload model. In that time, the COVID-19 pandemic occurred, the unrepresented crisis developed, OPDC experienced multiple leadership changes, the Commission was reconstituted entirely, and the agency transitioned from the Judicial to the Executive branch of government. All of which made thoroughly socializing and implementing a workload plan difficult. While the Commission did adopt a workload plan in 2024, it was not funded in the 2025 Legislative Session.

Although a shift to a new workload model has yet to occur, prior efforts have resulted in a foundation the agency can build on. A significant amount of data collection and analysis utilizing hourly data from the Oregon Trial Division and hourly attorneys has provided invaluable data about the time it takes to provide representation in different types of cases. OPDC has also collaborated with the DAS Office of Economic Analysis forecasting team to examine average case lengths and how open workload impacts forecasted caseloads. Finally, national experts have offered feedback and built a framework that could be used to develop future workload models.

In the Fall of 2026, the Commission created the Attorney Workload Subcommittee to gather information related to attorney workloads in the Oregon public defense system and to make consensus-based recommendations concerning possible changes to or the replacement of the existing Maximum Attorney

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Caseload (MAC) case credit approach currently utilized by the Oregon Public Defense Commission. To achieve this charge, the subcommittee will do the following.

Phase 1: Between November 2026 and March 2027, the subcommittee is tasked with gathering data and determining whether adjustments to the current MAC case credit approach can and should be made in advance of the 2027-2029 provider contract cycle. The subcommittee shall submit any consensus-based, budget neutral proposals for refinements to the MAC system to the full Board for consideration before the March 2027 Commission Meeting.

Phase 2: At the conclusion of Phase 1, the subcommittee is tasked with proposing changes to the existing MAC case credit approach or proposing a replacement workload model to be included in OPDC's budget proposal for the 2029-2031 Legislative Session. All proposals should be consensus based and based on collaboration between the Board members, OPDC staff, providers of public defense services, and other criminal justice system partners. The subcommittee will submit proposals to the full Board for consideration on a timeline that coincides with state budget development deadlines in early 2028.

<table>
<tr><th colspan="4">2026</th><th colspan="4">2027</th><th colspan="4">2028</th><th colspan="2">2029</th></tr>
<tr><th>Q1</th><th>Q2</th><th>Q3</th><th>Q4</th><th>Q1</th><th>Q2</th><th>Q3</th><th>Q4</th><th>Q1</th><th>Q2</th><th>Q3</th><th>Q4</th><th>Q1</th><th>Q2</th></tr>
<tr><td colspan="3">2027 Budget Development</td><td>Gov Budget</td><td colspan="2">2027 Legislative Session</td><td></td><td colspan="3">2029 Budget Development</td><td>Gov Budget</td><td colspan="2">2029 Legislative Session</td></tr>
<tr><td colspan="3" rowspan="2"></td><td colspan="4">Attorney Workload Subcommittee</td><td colspan="4" rowspan="2">Incorporation of New Model into 2029 Budget Development</td><td rowspan="2"></td><td rowspan="2"></td><td rowspan="2"></td></tr>
<tr><td colspan="2">Phase 1</td><td colspan="2">Phase 2</td></tr>
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DRAFT

APPENDIX A: CONTRACTED PROVIDER DETAILS

The tables on the following pages offer detailed breakdowns of contracted providers for the 2025-27 contracts as of October 1, 2026. Tables A1, A2, and A3 use the following terms:

Contracted MAC for Direct Representation: This term refers to the portion of an attorney's contract providing direct representation to clients under the Maximum Attorney Caseload (MAC) model, which is based on 300 misdemeanors per year. Attorneys providing representation on a full time basis are represented by 1.0 MAC. Attorneys providing less than full-time representation are denoted by a MAC value that is less than 1.0, such as a 0.7 MAC or 0.5 MAC. Attorneys with a MAC value less than one are most often consortium members who accepted case assignments from OPDC for a portion of their caseload, while also maintaining a separate client-retained practice in addition to their work with the state. Attorneys with a MAC value less than 1.0 may also be classified as supervisors, as OPDC reduces MAC requirements for those who provide supervision to other attorneys.

Contract Provider FTE: This term includes attorney time not measured through the MAC model, such as supervision, along with non-attorney contracted services like investigators and case managers.

Supervision FTE: This term represents the amount of FTE devoted by attorneys to supervision under the OPDC contract. OPDC funds supervisors at a rate of 0.1 supervisor FTE for every 1.0 attorney under their supervision. Supervision includes providing oversight, mentorship, and performance reviews. Supervising attorneys often carry a mixed contract of MAC and FTE.

Statewide Contracted MAC for Direct Representation: Statewide contracts provide representation services for post-conviction relief/habeas cases, post-conviction relief appeals, juvenile appeals, civil commitment appeals/Psychiatric Security Review Board, immigration consultations, forensic justice.

Reduced Caseload Program: New attorneys are eligible to join the reduced caseload program, which operates under a MAC limit of 200 weighted misdemeanors, rather than 300. For this table, the portion of effort devoted to representation is denoted as “Atty MAC”, while the non-caseload portion is denoted as “FTE non-caseload”.

SPPE: The *Supervised Practice Portfolio Examination* offers an alternative route to becoming a licensed attorney in Oregon. When first introduced, OPDC funded SPPE candidates at full rates, but starting with the 2025-27 contracts, only the MAC portion of an SPPE position will receive funding. The pre-existing SPPE positions will be phased out as those SPPE candidates obtain licensure.

TABLES TO COME

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