

**Public Defense Services Commission**

# **Unrepresented Crisis Plans**

**Joint Public Safety  
Subcommittee**

November 2023

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OREGON OFFICE OF  
**Public  
Defense  
Services**

# PDSC's Comments on Crisis Plans

- **Jurisdiction specific:** Various causes and extents mean that these plans are unique to each jurisdiction.
  - **Collaborative:** PDSC is appreciative of how collaborative most of this process was. It brought together different parts of the criminal justice system and allowed for prioritization of limited resources.
  - **Well considered and thorough:** Jurisdictions specific, impacted by extent of crisis and resources available in each jurisdiction. Some were more robust than others.
  - **Valid and executable:** Two different questions, conclusions are largely valid especially around PDSCs lack of usable data, and the need for more attorneys. While most conclusions could have an execution plan created for them, many would need additional resources not within the current public safety resources.
  - **Overall:** Positive that people outside of public defense are recognizing the challenges facing public defense, and identifying the same improvements and needs PDSC has identified.
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# PDSC Focus on Stabilizing the System

- **Stabilized Contracts:** Retention, Recruitment, MAC, 15%, Monthly prorate, standardized, contracted for significantly more mac within existing resources
  - **Finalized Hourly Rates:** Increased hourly rates for attorneys, investigators and other service providers
  - **Extended Enhanced Rates:** Prioritized the in-custody unrepresented persons by extending the increased attorney and investigator rates
  - **State Employees:** Recruitment, Workload Model
  - **Workforce Development:** Implemented Supervised Civil Law Program, Law Student Stipend Program, Gideon's Promise Training; collaborated with and supported other stakeholders with programs to increase public defenders
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# Four Levers

- Reduce filings
    - Outside of PDSC's control, but we remain very supportive of diversion programs and investments that prevent people from entering the criminal justice system.
  - Increase dispositions
    - All public safety responsible, DAs lead on dispositions, OJD lead on efficiencies, PDSC secondary on both. Support UTCR and court efficiencies, support alternative sentencing programs
  - Adding attorneys
    - PDSC responsibility. Recruitment and retention is a top priority of PDSC, 23-25 contracts represent an increase of approximately 23 MAC compared to June 2023.
  - Adding attorney capacity
    - PDSC lead, with OJD secondary. PDSC and OJD work collaboratively to prioritize assignment to unrepresented.
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## CJC CRISIS PLANS SUMMARY

- **Retention of current public defense workforce.**
- **SB 337 impacts on current public defense workforce.**
- **Recruitment strategies to attract new attorneys to public defense.**
- **Improve information and data coordination and communication.**
- **Open workload model, and exceeding MAC short-term with oversight.**
- **Courts and local public safety system efficiencies.**
- **OPDS responsivity and customer service.**
- **Reduce filings and increase case dispositions.**

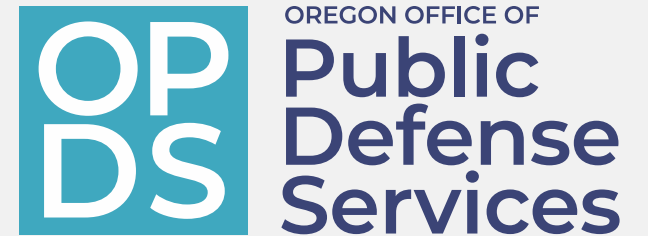
- **Retention:** 2 years of training and supervision in contracts, increased pay, \$9.9 retention incentive distribution plan.
- **SB 337:** Management Conference to open dialogue about the future under 337, Communications Specialist to increase transparency and ensure clear and consistent communications.
- **Recruitment:** Workforce development, increased pay, state employees.
- **Information and data sharing:** Partnership with OJD, FCMS in process, strengthening data team.
- **Workload model, exceed MAC:** New national standards, contractors can take hourly cases if at maximum, 15% variance in new contracts, building towards a workload model.
- **Court efficiencies:** Continue to work with OJD on system improvements.
- **PDSC customer service:** “Customers” are clients, not providers. Agency does have work to do on improving provider relations, as shown in our Remediation Plan.
- **Reduce filings and increase dispositions:** PDSC supportive but not within its control.

\*Full presentation on PDSC actions as presented to the Commission’s Right to Counsel Subcommittee 10/20 can be found in presentation’s appendix.

# PDSC Systemic Mitigation

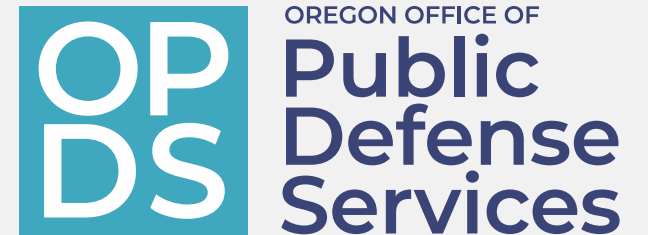
- **Right to Counsel Subcommittee:** Oversight and accountability for implementation of unrepresented persons programs.
  - **Remediation Plan:** Addresses underlying agency deficiencies preventing efficient and effective use of agency resources, including procurement, contract management, performance standards, data use, and communication.
  - **CAP:** Develop a Compliance, Audit, and Performance program plan that can independently monitor, measure, and report on the quality of public defense being provided by PDSC.
  - **FCMS:** Allow for more efficient financial processing and collection of statewide data relating to caseloads and case related activities.
  - **Workload Model:** Overseen and supported by the Right to Counsel Subcommittee. Workload model accurately reflects capacity of providers, allowing for resource prioritization. Workload model being developed for approval in the spring, 25-27 budget build, implemented by July 2025.
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# Thank you



# Appendix

Presentation given to Right to Counsel Subcommittee 10/20/23



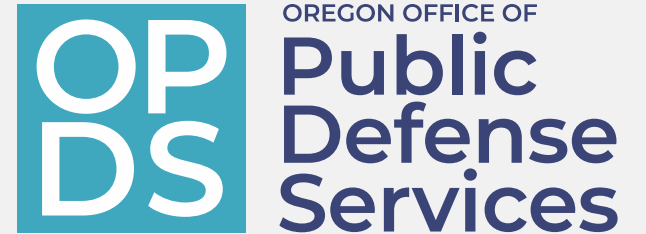


# Oregon Office of Public Defense Services

**RIGHT TO COUNSEL  
SUBCOMMITTEE**

**Jessica Kampfe, Executive Director**  
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October 20, 2023



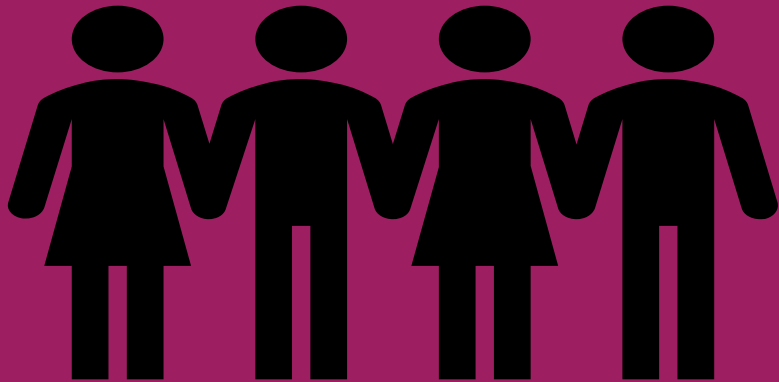
## UNREPRESENTED PERSONS CRISIS PLANS

# OREGON'S PUBLIC DEFENSE UNREPRESENTED PERSONS CRISIS PLANS

- **SB 337 §§ 103 to 108** – Coordinated public safety Unrepresented Person Crisis Plan to address immediate crisis.
    - August 15, 2023 – PDSC deadline to submit guidance for the Crisis Plans, Guidance submitted July 19.
    - September 1, 2023 - 27 judicial districts must submit crisis plan to the Criminal Justice Commission. These plans were submitted through the Oregon State Courts Administrator, along with a summary of the crisis plans.
    - September 14, 2023 - PDSC provided a response to the CJC on OSCA's summary.
    - October 1, 2023 – CJC reviewed the crisis plans and submitted a report and executive summary of the plans.
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## CJC SUMMARY OF UNREPRESENTED PERSONS CRISIS PLANS

**Retention of existing  
public defenders in  
Oregon is paramount**



**RETENTION OF PUBLIC DEFENDERS**



# RETENTION OF PUBLIC DEFENDERS

- Increased Compensation for Public Defenders:
    - Increase in attorney compensation rates for the 23-25 contract cycle;
    - Increased hourly attorney and investigator rates;
    - New Attorney Incentive Program and the Retention Incentive Program were successful at retaining attorneys during the Spring of 2023.
  - \$9.9 million for retention of recently hired contract providers as well as experienced contract providers – 2023-2025. PDSC is currently working on the disbursement plan.
  - Mentoring and Training Programs:
    - Gideon's Promise/ OCDLA Trial Skills – September 2023 & January 2024;
    - Rebalance of current PDSC resources to fully fund 2 years of training and supervision in the 23-25 contracts.
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## CJC SUMMARY OF UNREPRESENTED PERSONS CRISIS PLANS

**SB 337 and impact on  
efforts to retain the current  
public defense workforce**



**SB 337 – PUBLIC DEFENSE DELIVERY**



# SB 337 – PUBLIC DEFENSE DELIVERY

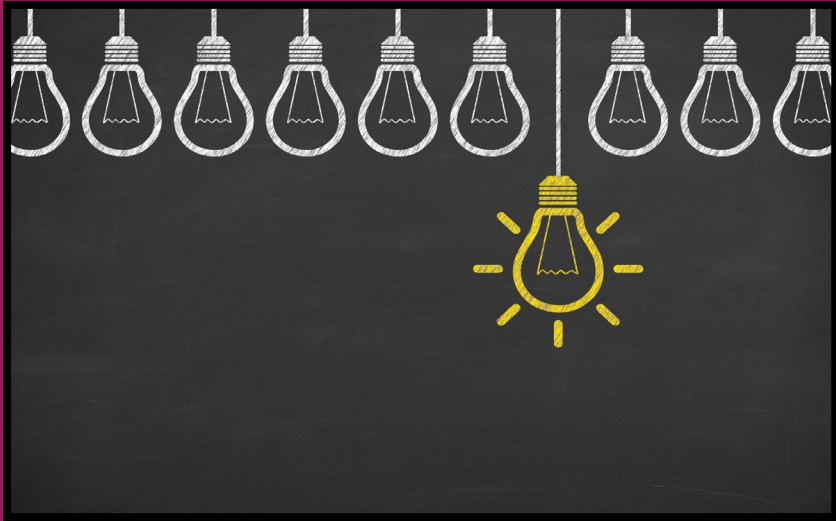
- PDSC Management Conference – November 2-3, 2023:
    - Overview of SB 337 and system reforms listening session;
    - Presentation by Massachusetts Hourly Private Bar Program;
    - More interactions between OPDS staff and provider community.
  - Expansion of Hourly Attorney Programs.
  - Temporary Hourly Increase Program was extended through the end of November for unrepresented in custody persons.
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# SB 337 – PUBLIC DEFENSE DELIVERY

- State Trial Offices:
    - November 2023, Deputy Chief Trial Counsel, Aaron Jeffers, starts;
    - November 2023, Interview and hire for attorneys and staff;
    - Northwest office attorneys taking cases in December;
    - Southern office taking cases by January.
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## **CJC SUMMARY OF UNREPRESENTED PERSONS CRISIS PLANS**

**Recruitment strategies  
strengthened and refined  
to attract new attorneys  
to public defense**



**RECRUITMENT OF PUBLIC  
DEFENDERS**





# RECRUITMENT OF PUBLIC DEFENDERS

- Improve and expand recruitment efforts.
  - Current or Planned Efforts:
    - Supervised Civil Bar Program – AY 2023;
    - New Attorney Recruitment and Mentoring Programs;
      - De Muniz "Misdemeanor Boot Camp" – November 15, 16 & 17, 2023;
      - Law and undergraduate student stipends – Summer 2023.
  - Future Efforts:
    - Law school misdemeanor clinics – Legislative ask in 2024;
    - Alternatives to the Bar Exam “Licensure Through Portfolio Examination” – Spring 2024 (not yet approved);
    - Rural Fellowship Program is in the early planning stages, a request has not been made.
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## CJC SUMMARY OF UNREPRESENTED PERSONS CRISIS PLANS

**Improve information and  
data coordination and  
communication  
between state and local  
agencies**



**IMPROVE DATA SHARING**



# IMPROVE DATA SHARING

- OJD and OPDS coordinated and shared data for SB 337 Unrepresented Persons Crisis Plans and public dashboard.
  - Weekly meetings with OJD to discuss data and unrepresented numbers:
    - Better visualizations on the public dashboard;
    - Improved utility and accuracy of the dashboard;
    - Now tracking the average days in custody over time.
  - Improved contracts and data sharing with providers to reduce inefficiencies and increase understanding.
  - OPDS collaborates with national public defense data experts, SMU Deason Center, to conduct presentations & workshops for providers, OJD, CJC and agency staff.
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## CJC SUMMARY OF UNREPRESENTED PERSONS CRISIS PLANS

**Movement toward an open  
workload model is necessary;  
short-term allowances for  
attorneys to exceed existing  
MAC, but only with careful  
oversight**



## MAC AND WORKLOAD MODEL



# MAC AND WORKLOAD MODEL

- PDSC successfully implemented a workload model for the PCRCP.
  - SB 337 directs PDSC to implement a Statewide Workload Plan - July 2025.
  - Crisis Plan proposals to increase MAC:
    - Removal of appointed counsel from warrant-status cases;
    - Local/conflict coordinators;
    - Increase provider supports;
    - Establish duty attorneys;
    - Judicial oversight of case appointments.
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# Maximum Attorney Caseload

- MAC refers to the annual caseload limits for criminal case types.
  - Caseload limits reflect the maximum caseloads for full-time public defense attorney.
  - Caseload limits assume an even distribution throughout the year.
  - 15% variance in monthly caseload numbers allow for flexibility in case assignments.
  - Contract provider compensation is based on attorney qualification and FTE.
  - PDSC oversight is important to monitor attorney capacity.
  - PDSC policies allow for providers to exceed maximum caseloads for hourly rate.
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## **CJC SUMMARY OF UNREPRESENTED PERSONS CRISIS PLANS**

**Courts and local public  
safety systems should continue  
to seek out and implement  
efficiencies, wherever possible**



**COURT AND SYSTEM EFFICIENCIES**



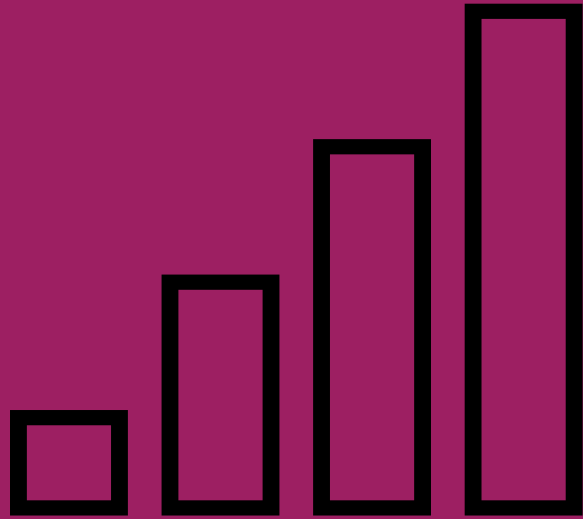
# COURT AND SYSTEM EFFICIENCIES

- PDSC is available and willing to work with OJD on court and system efficiencies.
  - OPDS staff attorneys are members of the CJAC Case Processing Subcommittee.
  - Efforts to improve discovery timelines.
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## CJC SUMMARY OF UNREPRESENTED PERSONS CRISIS PLANS

**OPDS should work toward  
improved responsiveness and  
customer service**



**AGENCY RESPONSIVENESS**



# AGENCY RESPONSIVENESS

- OPDS creation of Criminal and Juvenile Trial Services Division to provide greater communication to providers, courts and other stakeholders.
  - OPDS bi-weekly newsletter to all stakeholders.
  - Improved OPDS website.
  - Legislature funded additional resources in administrative services.
  - SB 5532 Comprehensive Remediation Plan, including improving agency efficiency and effectiveness, greater accountability and transparency, and agency remediation – January 2024.
  - Listening sessions with providers are in the works.
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## **CJC SUMMARY OF UNREPRESENTED PERSONS CRISIS PLANS**

**Additional effort should  
be made find  
opportunities to reduce  
filings and increase case  
dispositions**



**REDUCE FILINGS AND INCREASE  
DISPOSITIONS**



## REDUCE FILINGS AND INCREASE DISPOSITIONS

- Legislature funded Early Disposition Program in Multnomah County.
  - OPDS partners with providers and courts to implement early disposition programs in other judicial districts (e.g., Lincoln, Linn).
  - Public safety partners implement alternatives to prosecution with agency support (e.g., diversion programs, LEADs, restorative justice).
  - Violation treatment, other filing reductions.
  - Specialty dockets, settlement conferences.
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# RETENTION, RECRUITMENT AND RESPECT

**OPDS will strengthen Oregon's public defense and address the unrepresented crisis by implementing programs that:**

- Improve the retention of both new and experienced public defenders.
  - Improve recruitment of new lawyers into public defense.
  - Provide greater training and mentoring opportunities to new lawyers, investigators and other support staff.
  - Add more public defense attorneys, which will reduce public defender caseloads.
  - Develop and implement a workload model to reduce caseloads.
  - Foster and promote greater respect for public defense, providers, and clients with adoption of mission statement and development of 5-year strategic plan.
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# Thank you

