
Unrepresented Crisis Plans

JANUARY 2024 STATUS UPDATE

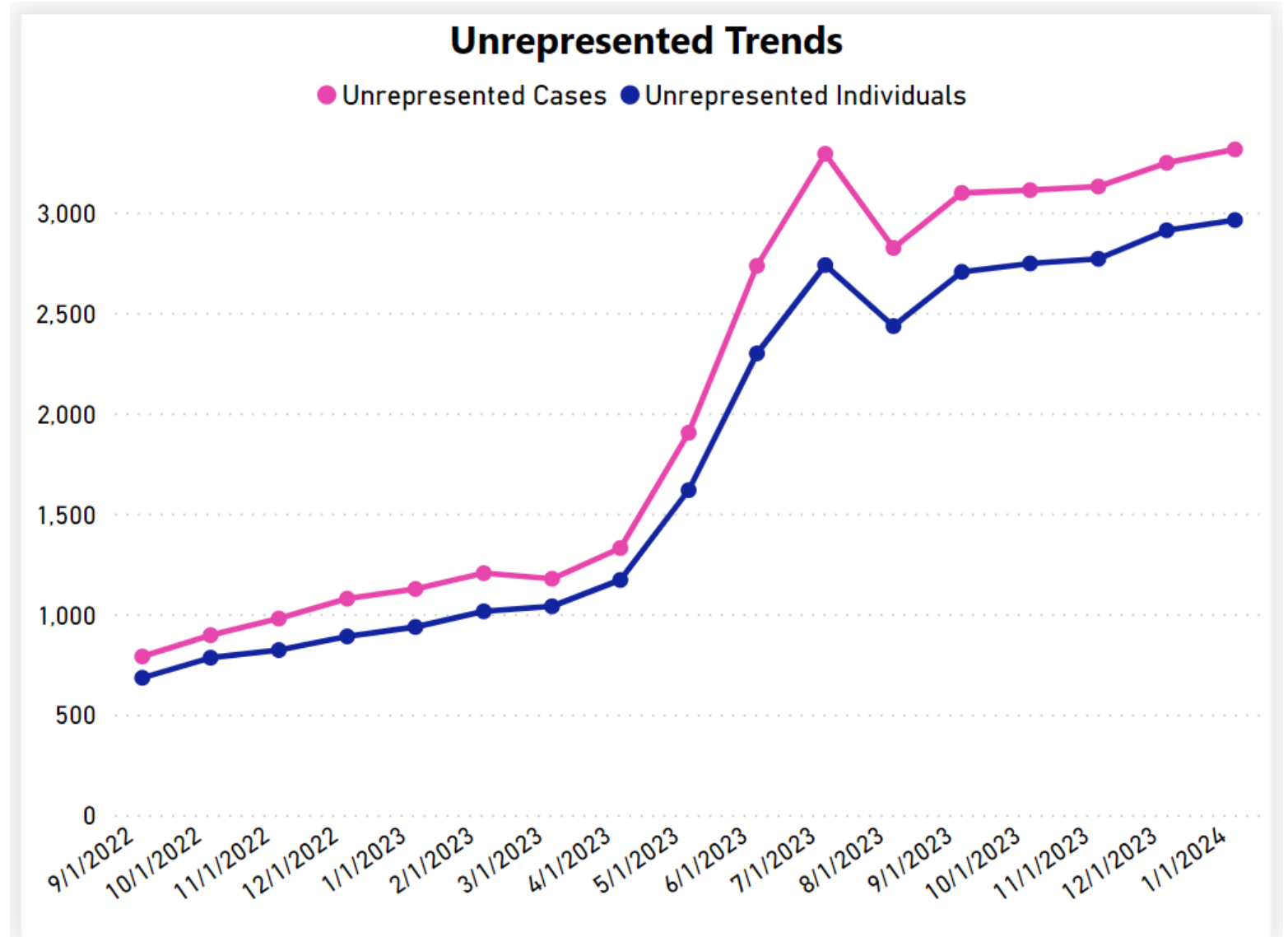
CHIEF JUSTICE ORDER 23-024, ENROLLED SENATE BILL 337 (2023)

Oregon Judicial Department



CURRENT STATUS

- The crisis escalated in April through June of 2023 as contract attorneys reached their annual caseload limits.
- In July 2023, PDSC set monthly limits on the number of cases attorneys can take within their annual cap.
- The rate of growth in unrepresented trends has slowed but continues to increase even as new attorneys are added.



Unrepresented Dashboard

CRISIS PLANS: FOUR LEVERS - COMMON THEMES

Lever	Authority
1. Add Attorneys	OPDC (stakeholders can help with recruitment and retention efforts)
2. Attorney Capacity	OPDC (stakeholders can recommend adjustments to increase available attorney time)
3. Decrease Filings	DA (stakeholder communication about filing trends and priorities can lead to system efficiencies through deflection or diversion, where appropriate)
4. Increase Dispositions	COURT (input from public safety partners can help the court engineer more efficient systems)

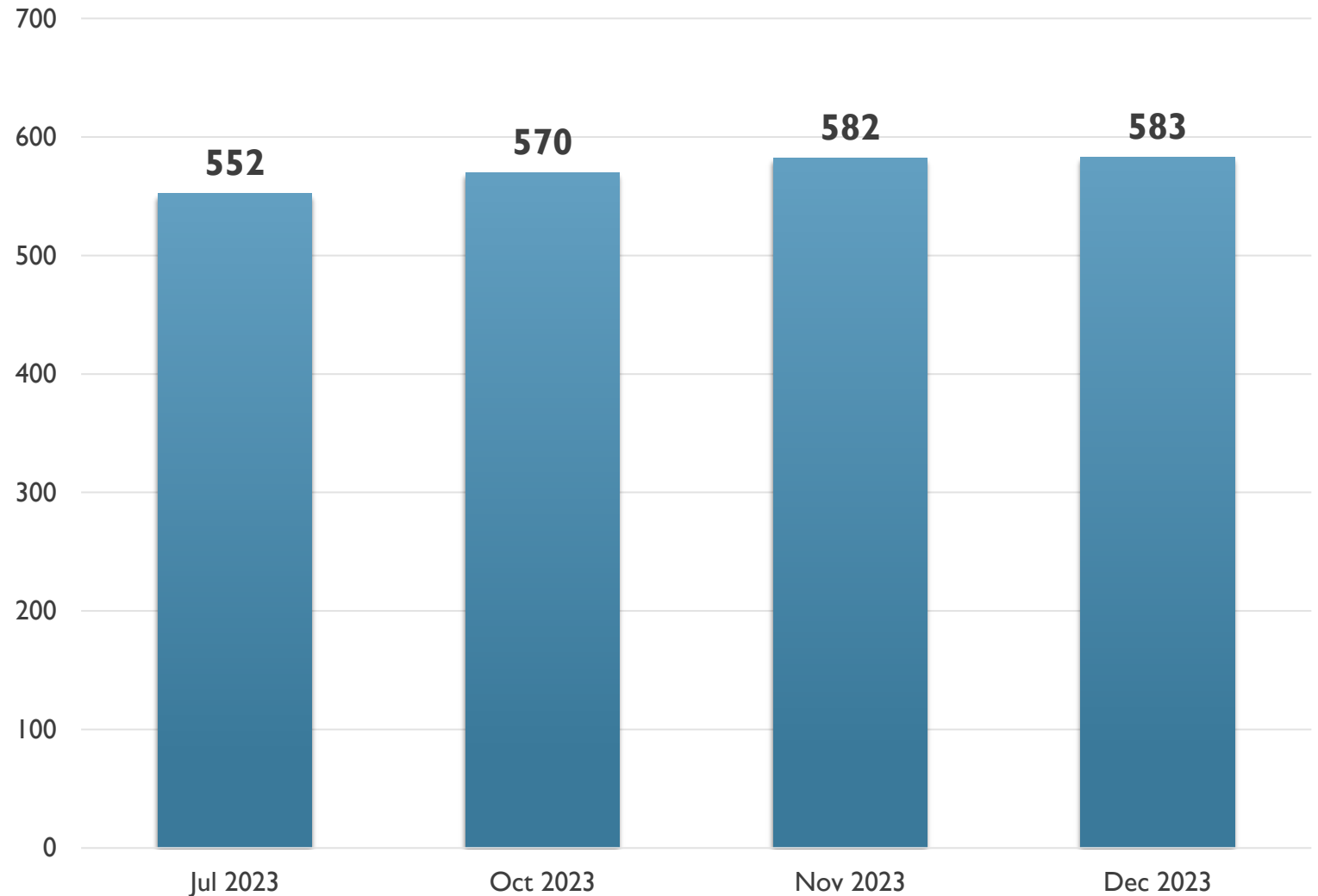
While specific entities hold different kinds of authority, each crisis plan assumes that system change - and progress - requires a shared vision, shared goals, and a group effort.

LEVER I – ADD ATTORNEYS

Crisis Plan Recommendations

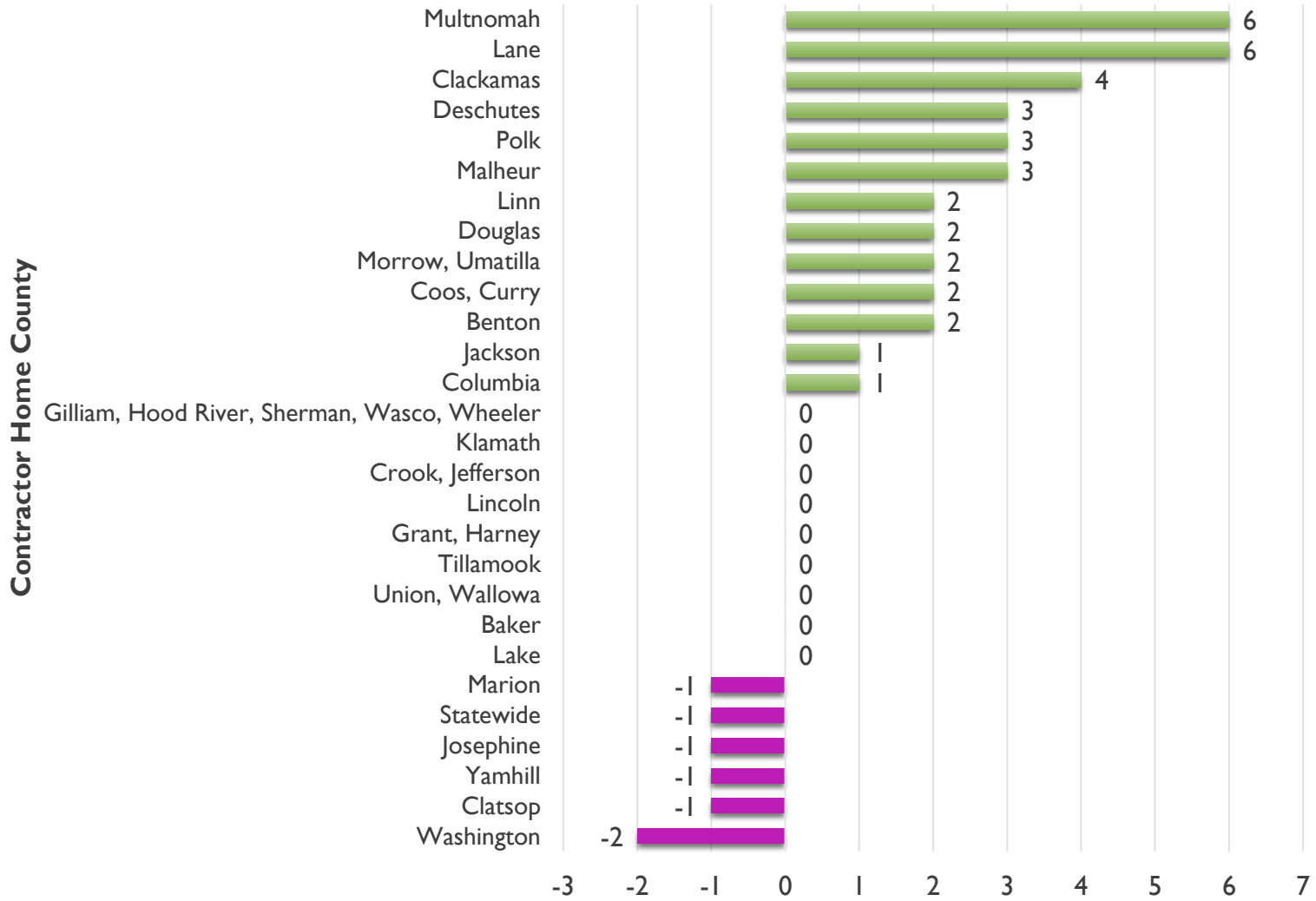
- Attorney Recruitment
 - Improve compensation
 - Fellowships; law school partnerships; mentorships
- Regional OPDC offices to take conflict cases

Criminal Contract Attorneys



Source: Snapshots of OPDC Provider Contract Data as of 7/18/2023, 10/1/2023, 11/14/2023, and 12/21/2023

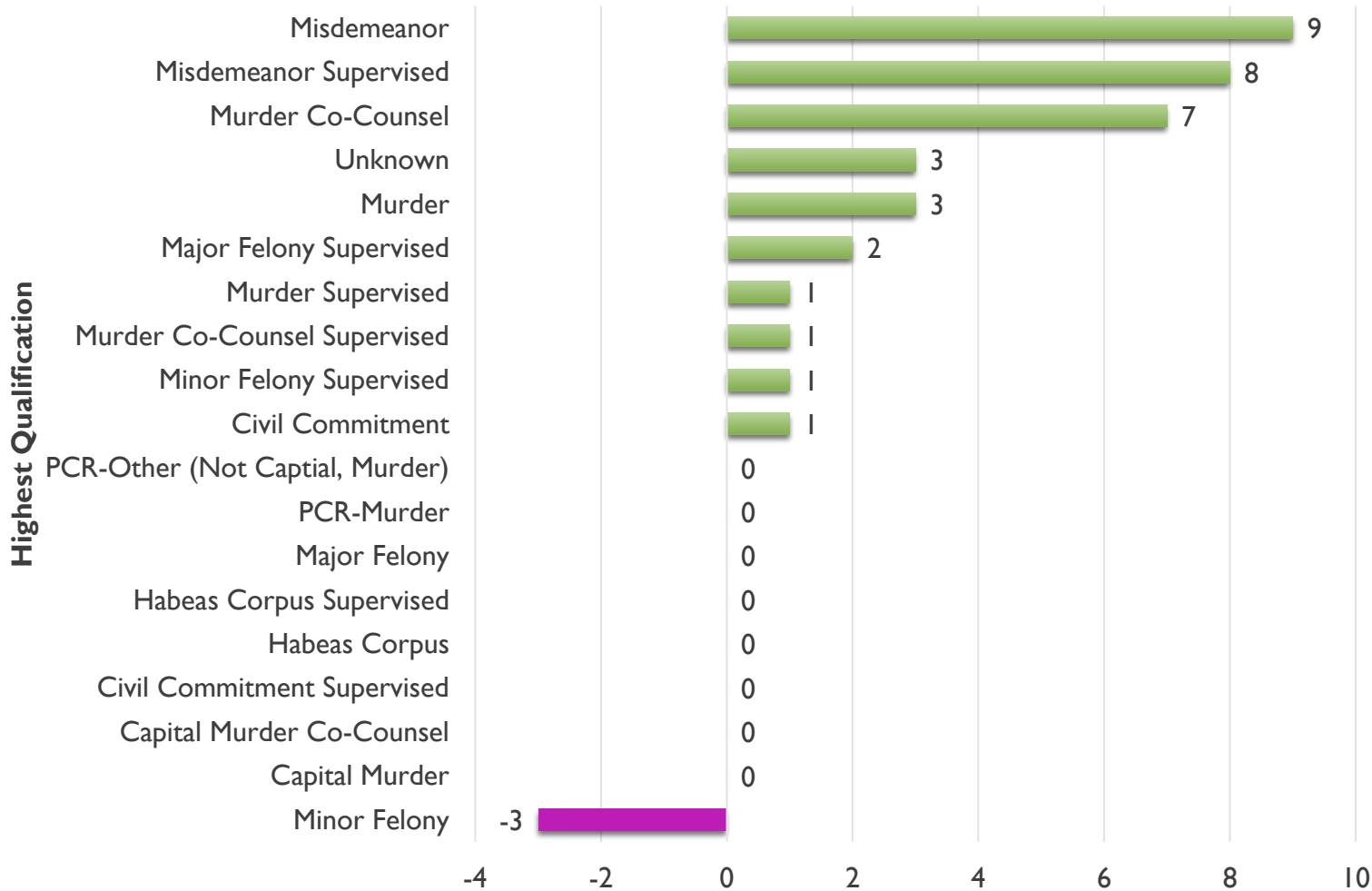
Criminal Contract Attorneys Net Change by Contractor County July 2023 – December 2023



31 ATTORNEYS
added to criminal
contract providers
(net)

Source: Snapshots of OPDC Provider Contract Data as of 7/18/2023, 10/1/2023, 11/14/2023, and 12/21/2023

**Statewide
Criminal Contract Attorneys Net Change by Qualification
July 2023 – December 2023**



**STATEWIDE
MOST UNREPRESENTED
CASES ARE MINOR FELONY
AND MISDEMEANOR**

**17 MISDEMEANOR
qualified attorneys
added (net)**

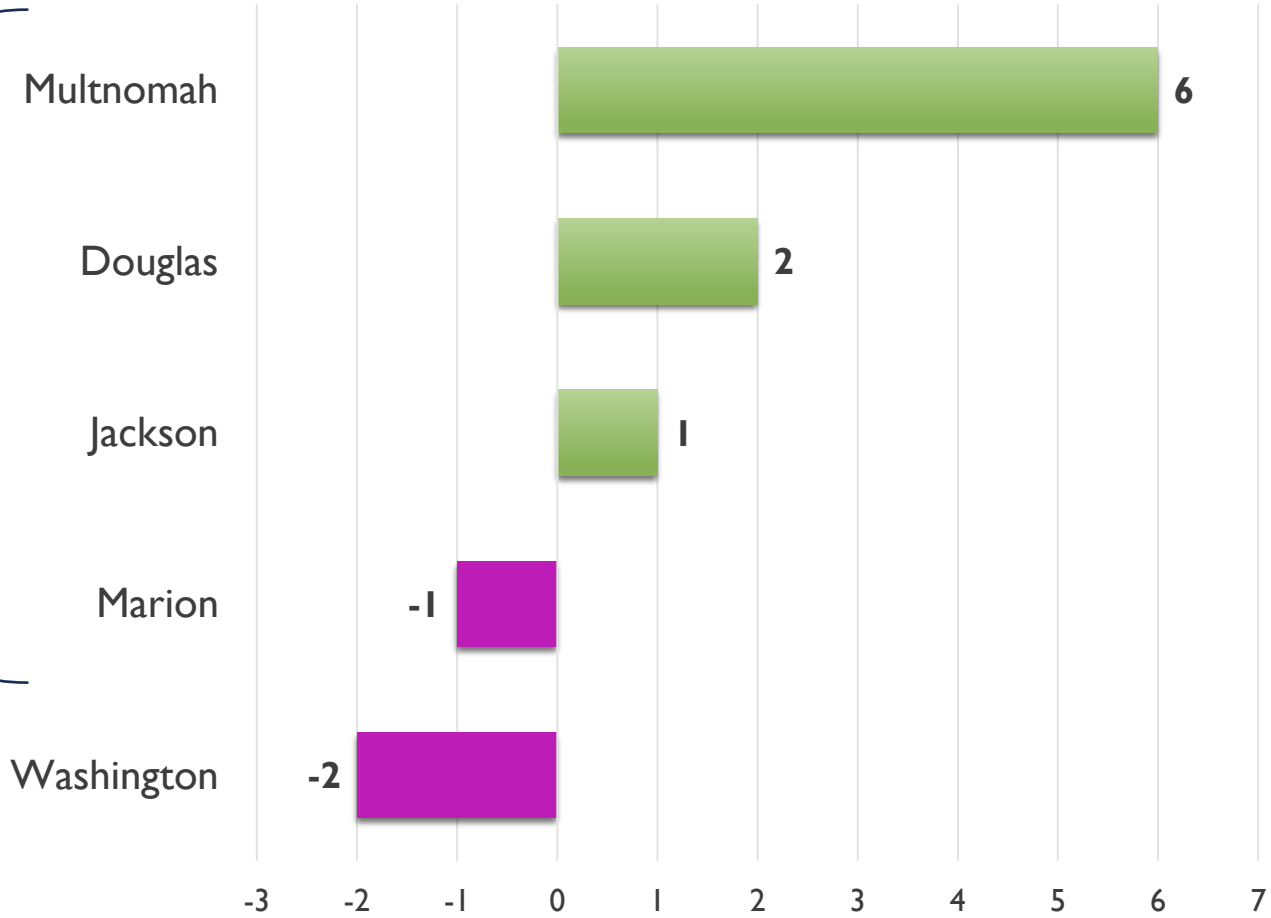
**2 MINOR FELONY
qualified attorneys lost
(net)**

Source: Snapshots of OPDC Provider Contract Data as of 7/18/2023, 10/1/2023, 11/14/2023, and 12/21/2023

Unrepresented Hotspots

Criminal Contract Attorneys Net Change by Judicial District
July 2023 – December 2023

In Custody & Unrepresented

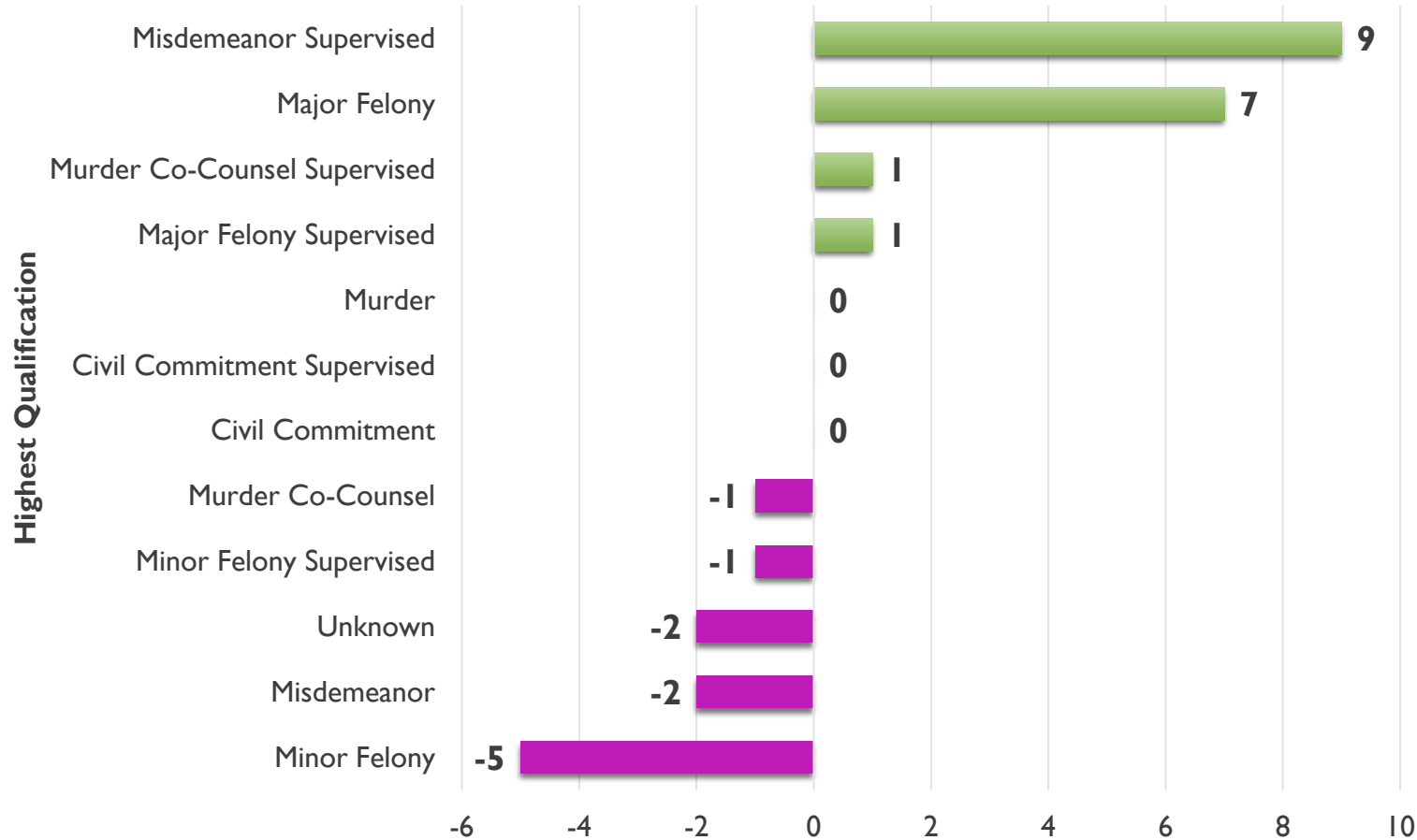


UNREPRESENTED
HOTSPOTS

6 ATTORNEYS
added to criminal
contract providers in
unrepresented
hotspots (net)

Unrepresented Hotspots

Jackson, Multnomah, Marion, Washington, Douglas
Criminal Contract Attorneys Net Change by Attorney Qualification
July 2023 – December 2023



UNREPRESENTED HOTSPOTS

MOST UNREPRESENTED CASES ARE MINOR FELONY AND MISDEMEANOR

7 MISDEMEANOR qualified attorneys added (net)

6 MINOR FELONY qualified attorneys lost (net)

Source: Snapshots of OPDC Provider Contract Data as of 7/18/2023, 10/1/2023, 11/14/2023, and 12/21/2023

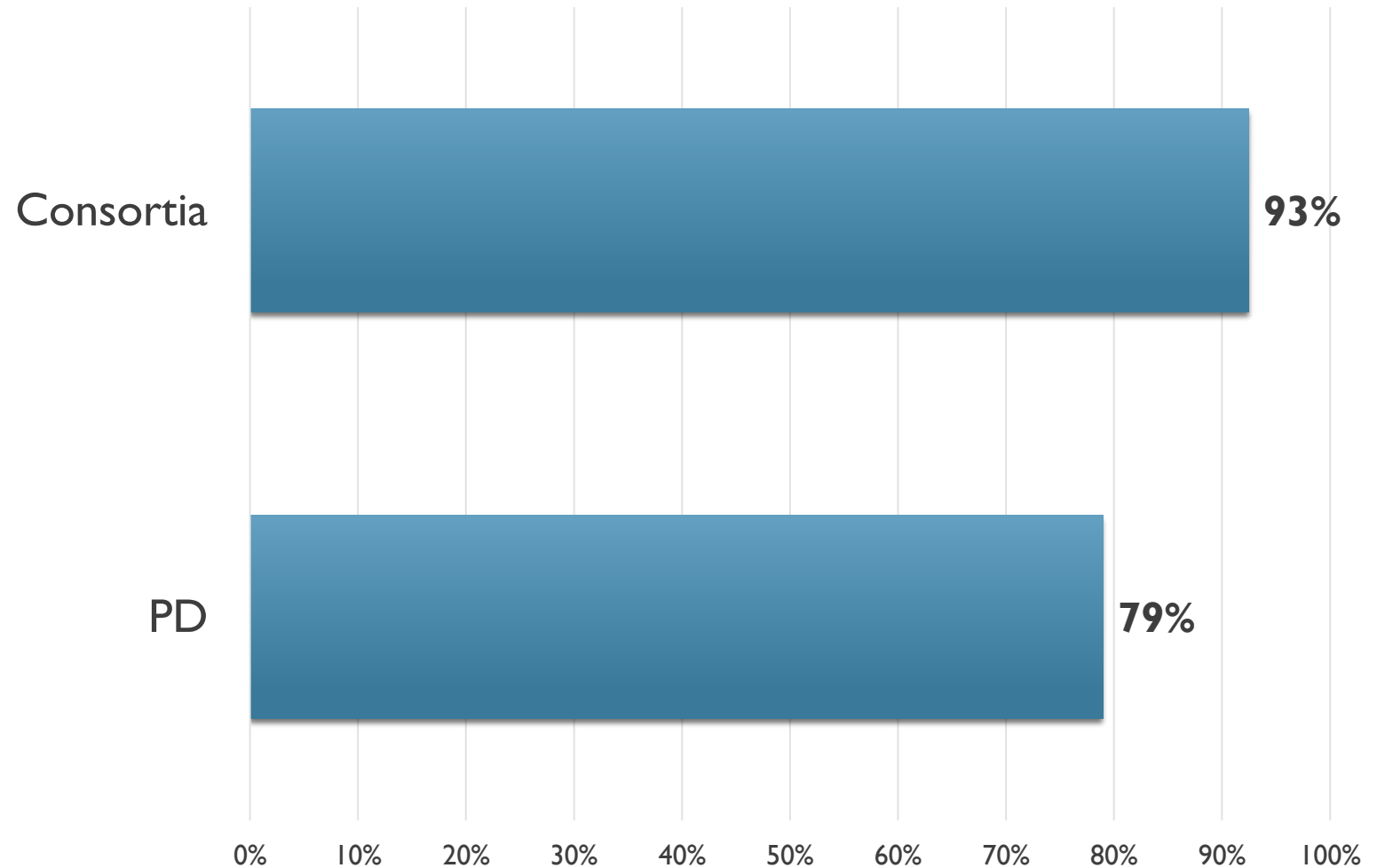
LEVER 2 – ATTORNEY CAPACITY

Crisis Plan Recommendations

- Contract changes
 - Ensure that contracts provide clear caseload expectations with enforcement mechanisms
 - Shift to open caseload or workload model
- Streamline administrative processes and remove barriers to adding attorney capacity
- Allocate capacity to address most significant needs and reduce unrepresented population

Statewide FY 2023 % of Contract MAC Taken

MAC – Maximum Attorney Caseload (annual)



Source: OPDC Provider Contract Data and OJD Odyssey Data

MEASURING ATTORNEY CAPACITY – SYSTEM LIMITATIONS



No automated way to see if attorney is/was available for the entire contract period



No automated way to identify or predict actual capacity of individual attorneys or contract entities

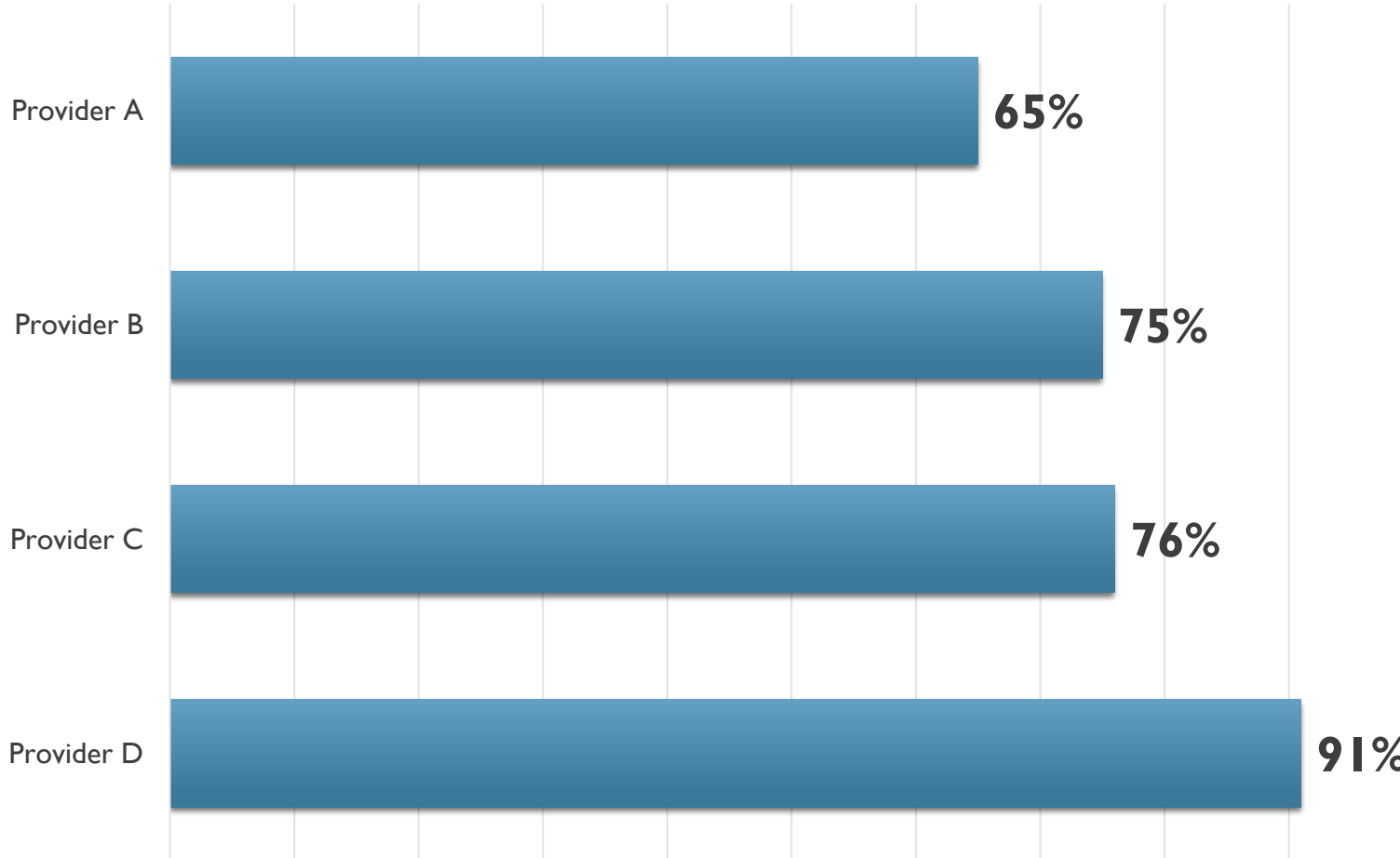


Total open caseload per attorney vs. annual contracted caseload



No time to disposition standards or comprehensive tracking

% MAC Taken by Providers Varies Widely Fiscal Year 2023 Contract Examples – Validated

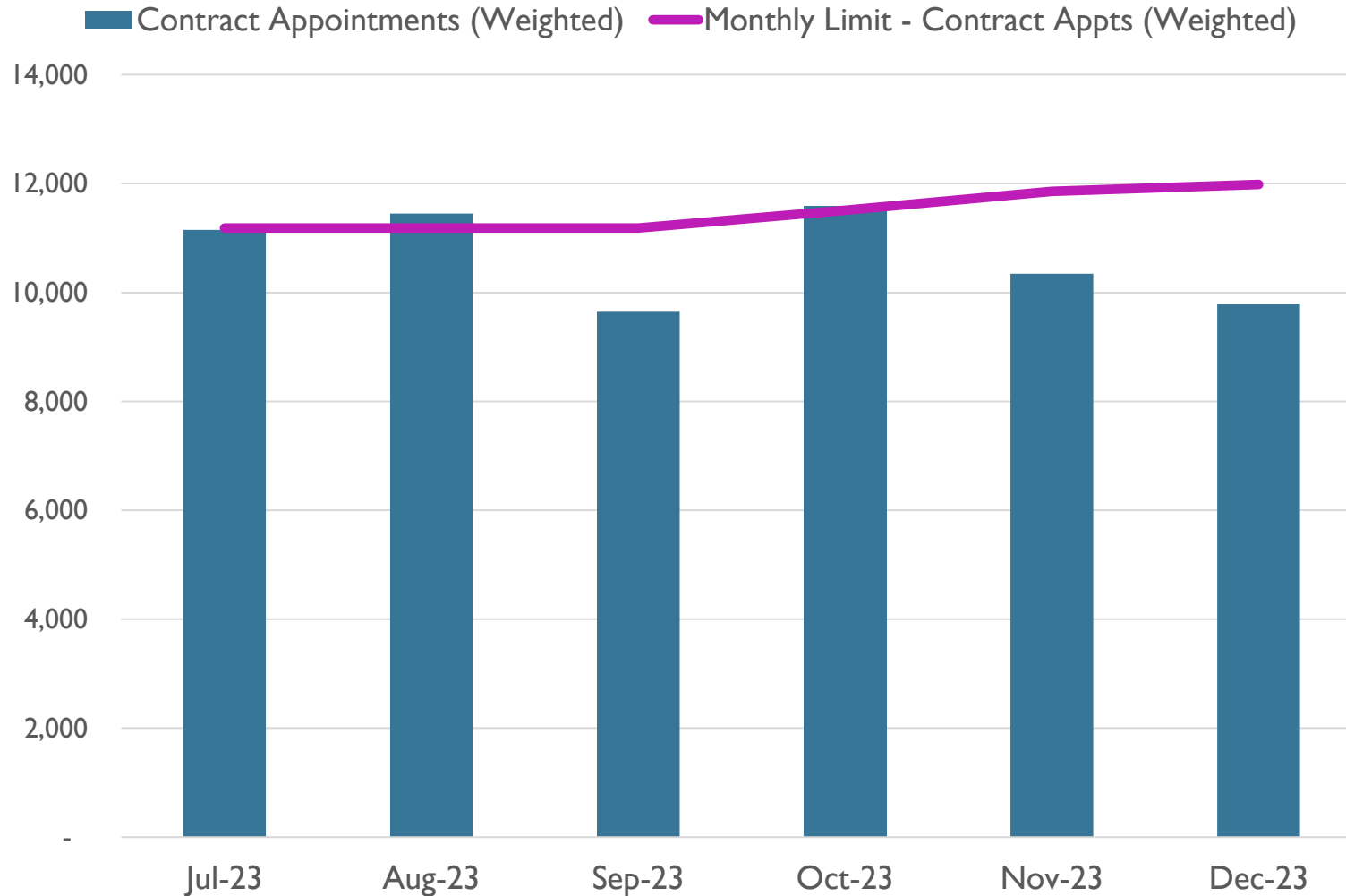


Source: OPDC Provider Contracts FY 2023

CONTRACTS DO NOT OFFER PREDICTABILITY REGARDING THE NUMBER OF CASES THAT WILL BE TAKEN BY CONTRACT PROVIDERS

MAC – Maximum Attorney Caseload (annual caseload)

Statewide Monthly Contract Appointments Taken and Monthly Contract Limits



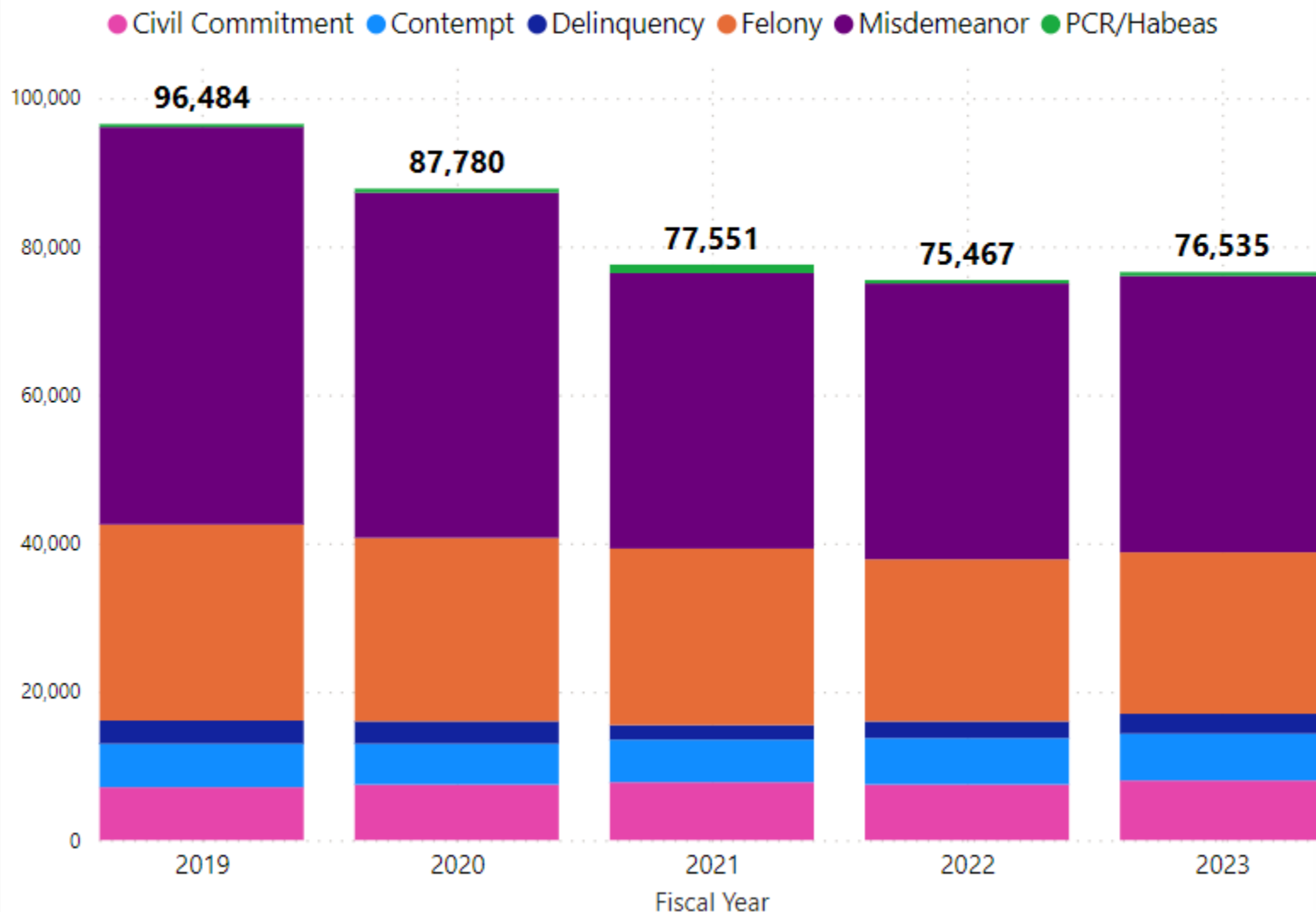
UNREPRESENTED GROWING EVEN AS NEW ATTORNEYS ADDED

In FY 2024, appointments taken each month are not reaching the monthly maximums.

The blue bar shows how many appointments (weighted) were taken each month by criminal contract attorneys.

The pink line is the maximum amount of contract attorney capacity based on the monthly limits OPDC sets in the contract (25 weighted cases per month for a full-time contract attorney).

Cases Filed



LEVER 3 – DECREASE FILINGS

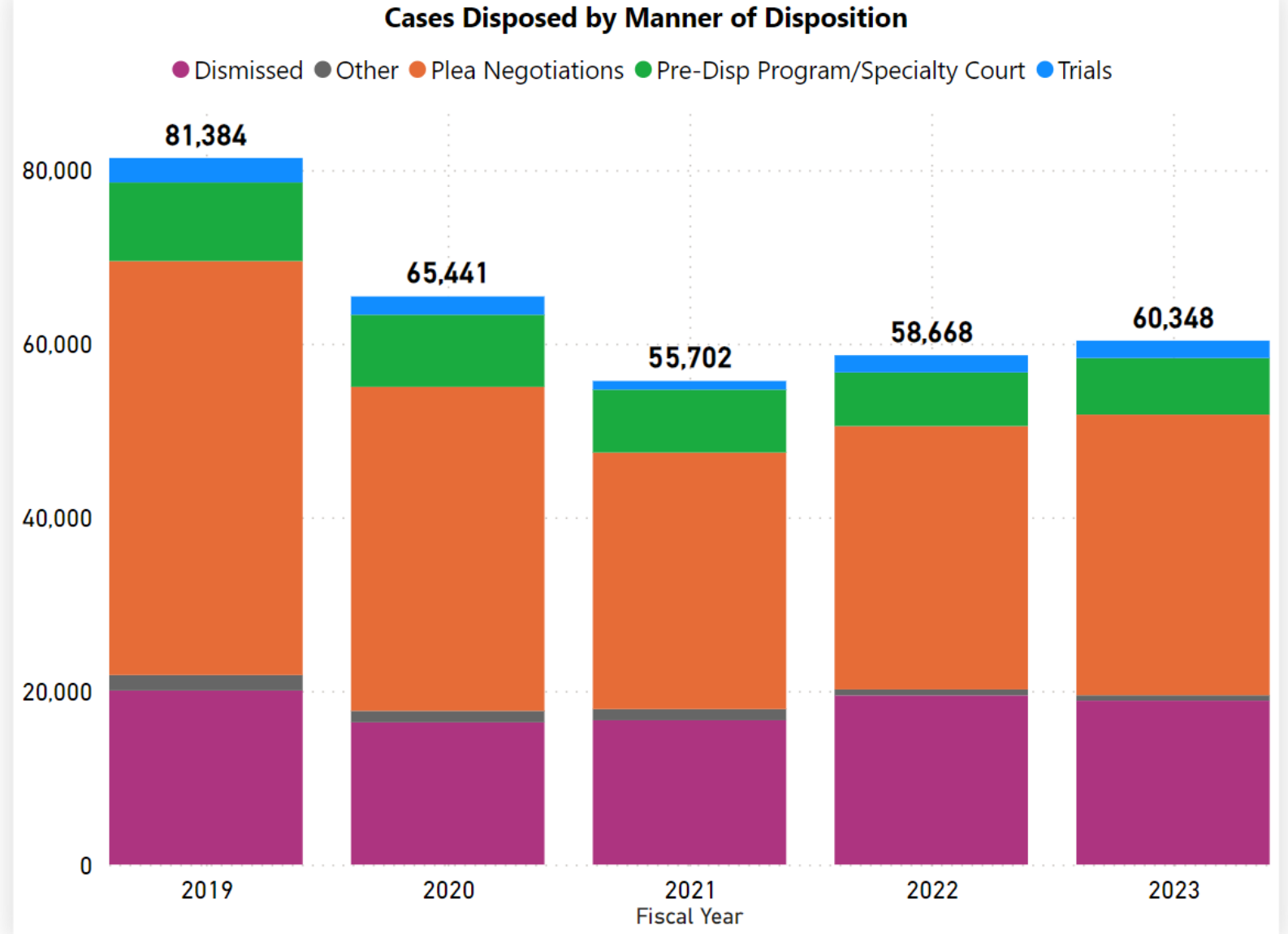
Crisis Plan Recommendations

- DA discretion to:
 - reduce number of filings when appropriate
 - file low-level misdemeanors as violations
- Other types of pre-filing diversions

LEVER 4 – INCREASE DISPOSITIONS

Crisis Plan Recommendations

- Remote appearance options
- Settlement conferences
- Better attorney access to clients
- Early Resolution and Treatment Court Dockets



TREATMENT COURTS ARE COST-EFFECTIVE PROGRAMS TO REDUCE RECIDIVISM

2020-2022 CJC Treatment Court Recidivism Study*



- **75% of treatment court graduates did not recidivate** within three years of successful completion compared to:
 - 41% of individuals who participated in, but did not complete, a treatment court
 - 35% of individuals who were referred, but did not enter, a treatment court

*Court types included: Drug, Mental Health, DUII, and Veteran Treatment

OJD LEGISLATIVE REQUESTS

February Session Requests

- Permanent funding for retired judge program to continue expedited resolution of criminal cases
- Permanent funding to stabilize and enhance treatment courts
- New court staff positions to support timely and equitable case resolution
- New judge positions for Jackson, Washington, and Clackamas counties



EXPECTED OUTCOMES

Court efficiencies implemented since the pandemic have increased case resolution

The majority of Oregon courts resolve criminal cases as fast or faster than new cases are filed

Without swift and significant change, the problem will continue at current levels or get worse

HOPE FOR THE FUTURE

- New regional offices are intended to add capacity
- New Commission members will bring new ideas
- If implemented, Justice Data Warehouse using Odyssey and OPDC data will allow for better monitoring and more transparency
 - Odyssey caseload dashboard creates opportunities for real-time caseload information for providers to reconcile their caseload reports
 - OPDC can compare information, such as motions filed, case outcomes, time to disposition, and other metrics, to better understand quantitative and qualitative aspects of representation across the state

UNREPRESENTED DASHBOARD

Questions?

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Assistant Deputy State Court Administrator

