

## ANALYSIS

### Item 13: Public Defense Commission Assignment Coordinators

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**Analyst:** John Borden

**Request:** Allocate \$126,429 General Fund from the special purpose appropriation made to the Emergency Board for public defense expenses to the Public Defense Commission and authorize the establishment of two permanent positions (0.66 FTE) to act as Assignment Coordinators for the unrepresented defendant/persons crisis.

**Analysis:** The Public Defense Commission (PDC) is requesting an allocation of \$126,429 General Fund from a public defense contingency special purpose appropriation (SPA) and authorization to establish two permanent full-time Program Analyst 2 positions (0.66 FTE) to act as Assignment Coordinators for the unrepresented defendant/persons crisis in the Compliance, Audit, and Performance Division. While the total cost of the positions is \$189,058 General Fund, PDC reports that it can fund \$62,629 from unspecified savings within the Division. If approved, these positions would start on November 1, 2024. The rollup costs of this request are estimated to be \$610,466 General Fund and two positions (2.00 FTE) for the 2025-27 biennium.

PDC currently has two existing Assignment Coordinator positions, one in the Adult Trial Division, and one in the Compliance, Audit, and Performance Division. Assignment Coordinators work to acquire a public defender for defendants/persons on the unrepresented list. This is done by identifying provider contract capacity, a state trial-level defender, or an hourly attorney, which could be either a non-contract provider or an existing contract provider with excess capacity above their contract. Assignment Coordinators serve both in-custody and out-of-custody defendants/persons, provide a nexus between circuit courts and provider/attorney capacity, and rely heavily on the Temporary Hourly Increase Program (THIP). THIP was developed in response to the unrepresented defendant/persons crisis and serves as a mechanism to increase attorney and investigator capacity through enhanced hourly rates of pay above standard hourly scheduled rates of pay. PDC believes the Assignment Coordinator role improves the efficacy of the program, that two additional positions would provide necessary additional capacity, and would assign a region of the state to each of the four Assignment Coordinators. PDC reports that the current Assignment Coordinator's handle roughly 100 to 250 cases per month.

PDC's most current budget execution report for the 2023-25 biennium (as of July 31, 2024), which includes both actual expenditures to-date as well as projected expenditures for the remainder of the biennium, assumes \$34 million in General Fund savings for the biennium, of which \$427,968 is in the Compliance, Audit, and Performance Division. Given this data, PDC has sufficient funding in the current biennium to fund the entire amount of \$189,058, on a one-time basis, and the only required Emergency Board action would be the authorization of the two positions and associated FTE.

Lastly, due to the continued uncertainty with the duration of the unrepresented defendant/persons crisis, the Legislative Fiscal Office recommendation is to establish the positions as limited duration rather than permanent. This will allow for further consideration of these positions and programs through the 2025-27 budget development process, where PDC would have the opportunity to request that the positions be extended into next biennium and on a permanent basis, if necessary.

**Recommendation:** The Legislative Fiscal Office recommends that the Emergency Board authorize the establishment of two limited duration positions (0.66 FTE) for the Public Defense Commission in the Compliance, Audit, and Performance Division.

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Oregon Public Defense Commission  
Gehringer

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**Request:** Allocate \$126,429 from the Special Purpose Appropriation made to the Emergency Board for Public Defense Contingency to establish two permanent, full-time program analyst positions (0.66 full-time equivalent) to act as assignment coordinators.

**Recommendation:** The Oregon Public Defense Commission is not under Executive Branch budgetary authority.

**Discussion:** The Oregon Public Defense Commission (OPDC) requests two additional Program Analyst 2 positions to act as Assignment Coordinators to address the unrepresented client crisis. These coordinators will manage the assignment of counsel to unrepresented persons, working with judicial districts to find available attorneys. The new coordinators will streamline the assignment process, improve communication with stakeholders, and increase the number of cases assigned by 25 percent for each additional coordinator.

OPDC's request is for \$126,429 of the Emergency Board in the current biennium, the total cost for the positions during the 2025-27 biennium is estimated at \$736,875.

**Legal Reference:** Allocation of \$126,429 from the Special Purpose Appropriation made to the Emergency Board by chapter 605, section 9(1), Oregon Laws 2023, to supplement the appropriation made by chapter 481, section 1(2), Oregon Laws 2023, for the Oregon Public Defense Commission, Compliance, Audit and Performance Division for the 2023-25 biennium.



# Oregon

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August 26, 2024

Senate President Rob Wagner, Co-Chair

House Speaker Julie Fahey, Co-Chair

Joint Emergency Board

900 Court Street NE

H-178 State Capitol

Salem, OR 97301-4048

Dear Co-Chairs:

## **Nature of the Request**

OPDC is requesting two Program Analyst 2 positions (0.66 FTE for 2023-25) to act as Assignment Coordinators and to assist in addressing the Unrepresented Crisis plan. The estimated cost of this request is \$189,058. The agency will be asking for \$126,429 from the Public Defense Contingency Special Purpose Appropriation. There remains a shortfall of \$62,629, which the agency will cover using agency savings. Altogether, this request and the funding needed for these positions during the 2025 – 27 biennium amounts to \$736,875 in roll up costs.

On May 23, 2024, Governor Kotek requested that the Oregon Public Defense Commission (OPDC) submit a plan by August 1, 2024 to “eliminate Oregon’s unrepresented client crisis in both the near and long term, and that plan should be based in the realities of the current fiscal and legislative environment.” OPDC submitted that plan to the Governor. The plan included interventions OPDC was taking or planned to take within existing resources, as well as interventions that would require Legislative approval, funding through the Emergency Board, or both. This request is in line with that crisis plan.

## **Agency Action**

When it comes to assigning counsel to a person eligible for public defense, OPDC contractors are first in line. Under normal circumstances, the court will assign an available attorney upon arraignment. However, when no attorney is available due to lack of capacity or conflicts of interest, the court will assign OPDC as a placeholder. This puts the defendant on the unrepresented list and notifies OPDC of the need to locate counsel. OPDC’s assignment coordinators do this work. They contact hourly providers in the area, or contracted providers and state trial attorneys if there is known capacity, and work to assign those providers to unrepresented cases. Prior to the introduction of the Temporary Hourly Increase Program (THIP), about 1% of appointments were done this way; today, 10% of assignments go through OPDC assignment coordinators.

OPDC currently has two assignment coordinators dedicated to finding attorneys for all unrepresented persons across the state. This is an overwhelming task, and all staff members are working at full capacity. OPDC is requesting funding to add two additional assignment coordinator positions. Each coordinator

would be responsible for a different region of the state and would work with the region's judicial districts to find counsel for any unrepresented persons in the district.

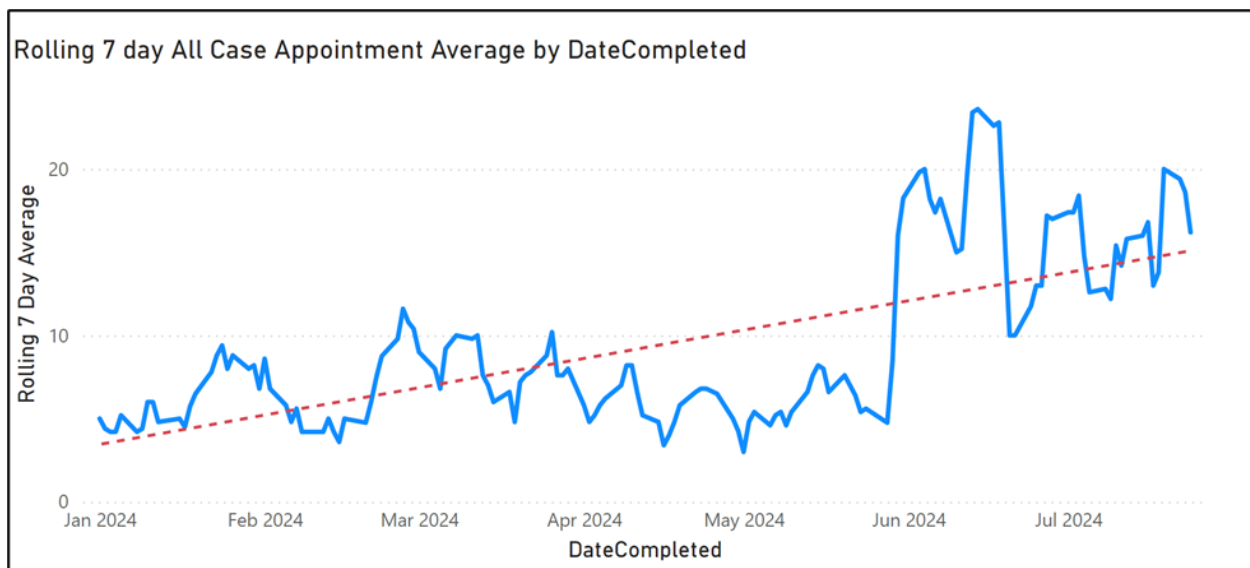
Over the last year, OPDC has been working to improve its assignment coordination. This began with process mapping to see where pinch points were within the assignment process. The main issue identified was the process used to communicate unrepresented information and priorities between OPDC and stakeholders, including courts, attorneys, and unrepresented persons. This communication was managed by a central inbox, which ultimately proved to be cluttered and overwhelming.

The OPDC data and research team worked with IT, the assignment coordinators, and the courts to develop an electronic intake form. This form allows stakeholders to submit case details, streamlining the assignment process and providing better data collection. It also generates an automatic workflow that has improved efficiency, transparency, and service delivery in handling unrepresented person cases statewide. Now, rather than using a clogged inbox, courts can submit a form for an unrepresented case. That form goes into a queue that the assignment coordinators are able to easily review, and when counsel is found, the form automatically notifies the court.

Data collection has also greatly improved, both through the use of this form and through work by OPDC's data team. OPDC now has multiple dashboards. The OPDC Hourly Agreements dashboard allows OPDC to see hourly assignment data including THIP cases, recent case assignments, and hourly attorney caseloads. The Trial Division dashboard summarizes real-time caseload data on OPDC Trial Division attorneys to measure attorney capacity and aid the attorney assignment process. The Caseload Reporting dashboard monitors contractor's reported caseload and assesses capacity. With these dashboards, OPDC's trial support and development team's resource counsel, who are subject matter experts on public defense, and assignment coordinators are able to identify potential capacity and prioritize case assignments.

Until May 2024, OPDC only had one full-time assignment coordinator for the entire state. In May and June, OPDC reassigned an employee to assignment coordinator work, and another employee to part-time administrative tasks, such as data entry and clerical work, to support the two assignment coordinators. Presently, OPDC has two full-time assignment coordinators and one part-time clerical administrator facilitating the assignment of counsel on unrepresented cases statewide.

These process improvements and additional staff time have increased OPDC unrepresented case assignments eightfold. The improvements are obvious when looking at the rolling 7-day average of OPDC-appointed cases. There was a significant increase between May and June when both the form went statewide, and the additional assignment coordinator began.



Now that process improvements are in place, OPDC assignment coordinators are once again hitting capacity. Adding additional assignment coordinators will allow OPDC to increase the number of cases it assigns and capitalize on the benefits of the process improvements. OPDC estimates a 25% increase in case assignments for every additional assignment coordinator added.

### Action Requested

OPDC requests funding and position authority for two Program Analyst 2 positions (0.66 FTE for 2023-25) to act as Assignment Coordinators and to assist in addressing the Unrepresented Crisis plan. The estimated cost of this request is \$189,058. The agency will be asking for \$126,429 from the Public Defense Contingency Special Purpose Appropriation. There remains a shortfall of \$62,629, which the agency will cover using agency savings. Altogether, this request and the funding needed for these positions during the 2025 – 27 biennium amounts to \$736,875 in roll up costs.

### Legislation Affected

Oregon Laws 2023, Chapter 481 section 1(2) \$126,429  
 Oregon Laws 2023, Chapter 605, section 9 (1) (\$126,429)

Sincerely,

Jessica Kampfe  
 Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer

John Borden, Principal Legislative Analyst, LFO

Kate Nass, Chief Financial Officer

Zack Gehringer, Policy and Budget Analyst, CFO