



CIRCUIT COURT OF THE STATE OF OREGON

FOURTH JUDICIAL DISTRICT

JUDITH H. MATARAZZO
PRESIDING JUDGE

MULTNOMAH COUNTY COURTHOUSE
1200 S.W. FIRST AVENUE
PORTLAND, OR 97204-3201

PHONE (971) 274-0500

September 20, 2024

Jennifer Nash, Chair
Oregon Public Defense Commission
Sent via email

Dear Commissioner Nash,

We write to ask directly for the Oregon Public Defense Commission's (OPDC) immediate assistance in addressing the sudden and urgent lack of public defense representation for defendants charged with the most serious and violent crimes in Multnomah County. In just the last week, both public defense contract offices are reporting that they have no capacity to take major felony cases. These are charges that include murder, rape, robbery, and assault.

As you know, defendants eligible for public defense representation who do not have a lawyer must be released from custody within 7 days pursuant to federal court order, regardless of the seriousness of the crimes they are accused of. More than 600 individuals eligible for public defenders in this county are out of custody and repeatedly appearing in court only to find that no counsel is available to appoint for them. Nearly 1,000 additional people eligible for public defense representation here are unrepresented with warrants for their arrest due to failing to appear at one or more hearings. We are repeatedly seeing individuals without the advice of counsel who, while out of custody, are committing more, and often more serious, crimes and eventually facing more severe penalties. This is an extreme disservice to unrepresented defendants -- who are without connections to legal advice, substance abuse treatment, and other critical resources while they are facing potential jail or prison sentences -- as well as to our community who expects a functioning justice system, and to victims of crimes.

Until now we have managed locally to find attorneys, working with the providers and the limited-duration court position given to us by the legislature. These steps no longer are sufficient, and we now are using the Nintex form provided by OPDC in an effort to avoid unnecessary releases that could jeopardize public safety.

In April, we addressed you and the OPDC commissioners in a letter (pages 94-95 of the OPDC May 8, 2024 meeting materials) explaining the intensifying situation in our county and asking for urgency in implementing solutions. We stated that we believe to improve the situation, OPDC needs to change the way it is monitoring and meeting the needs for public defense capacity here, by tracking attorney workload and restructuring the contracts and compensation for public defenders. Five months later, the situation has reached a new crisis point in Multnomah County; we simply cannot understand why the public defense system is failing the state to such a degree.

We request that you provide answers to the following questions as soon as possible:

- What MAC or caseload capacity exists at Metropolitan Public Defenders, Multnomah Defenders, Inc., and the Portland Defense Consortium in Multnomah County for the rest of the contract year?
- If their attorneys have not reached their contracted MAC, can you encourage or direct them to take needed appointments?

- Is there more capacity within the OPDC trial division for cases in Multnomah County? Few have been taken.
- When cases resolve, how can OPDC ensure that capacity is freed up quickly for appointment to new cases?
- What is being done to prevent the shortage of public defense capacity from continuing into the next contract cycle if attorneys may cease taking new appointments when they reach their ethical maximum, and how can OPDC ensure it is contracting for enough capacity to meet demand in our jurisdiction?

Answers to these questions are critical to resolving this crisis. We look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Judith H. Matarazzo". The signature is fluid and cursive, with "Judith H." on the left and "Matarazzo" on the right, with a small "J" preceding the name.

Judith H. Matarazzo, Presiding Judge

Copies to:

All Commissioners, Oregon Public Defense Commission
Jessica Kampfe, OPDC Executive Director
The Hon. Meagan Flynn, Chief Justice
Nancy Cozine, State Court Administrator