

# ANALYSIS

## Item 3: Public Defense Commission Rebalance

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**Analyst:** John Borden

**Request:** Transfer \$37,581,524 General Fund from the Public Defense Commission Executive, Compliance, and Audit and Performance, Appellate, Adult Trial, Parent Child Representation Program, and the Administrative Services Divisions to the Juvenile Trial Division, Court Mandated Expenses, and Preauthorized Expenses, for a budget rebalance.

**Analysis:** The Public Defense Commission (PDC) is requesting an agency-wide rebalance that would move \$37.6 million General Fund between nine of the agency's 10 budgeted programs. This would be the second major rebalance for PDC within the year (SB 5701, 2024). Major components of the rebalance include the transfer of General Fund savings from seven programs (\$14.1 million General Fund) to partially funding projected deficit spending in Preauthorized Expenses (PAE)(\$7.7 million), Court Mandated Expenses (CME)(\$6.3 million), and to fully fund a projected deficit in the Juvenile Trial Division (\$100,000). The rebalance request also moves the line-item budget for psychological services from CME to PAE (\$23.5 million General Fund).

CME are those expenses ordered by trial and appellate courts for private hourly rate attorney services, interpreter services, medical experts, various records, 911 recordings and Emergency Communication Recording Logs, telephone charges, photocopying and scanning, facsimile charges, routine mileage and parking, postage, service of process, and the payment of lay witness and mileage. The 2023-25 legislatively approved budget for CME is \$75.8 million General Fund and \$4.5 million Other Funds (Application Contribution Program).

PAE are trial and appellate defense attorney expenses are for transcriptionists, investigators, interpreters, mitigators, social workers, psychologists, polygraph examiners, and forensic experts, and medical experts that fall outside regular, routine case-mandated expenses. The 2023-25 legislatively approved budget for PAE is \$58.6 million General Fund and a \$1 Other Funds placeholder (Federal as Other Funds from Title IV-E funds transferred from Oregon Department of Human Services for reimbursement of eligible state expenses).

PDC attributes the savings available for rebalancing to position vacancies, services and supplies, provider contracts, the regional pilot program, recriminalization supplemental funding, and the Financial Case Management System information technology project.

PDC states that deficit spending in CME is attributable to an increase in the utilization of standard hourly caseloads as well as enhanced hourly rates for attorneys and investigators under the Temporary Hourly Increase Program (THIP). PDC attributes deficit spending in PAE to psychological services being improperly budgeted in CME, as well as an increase in demand for psychological services. PAE deficit spending is also being attributed to an administrative decision by the Commission in fall 2023 to reimburse travel expense for hourly providers at 100% of their hourly rate and for flat rate providers at \$75 per hour.

Components of PDC's request are recommended to be rebalanced, as they tied to identifiable General Fund savings. These include savings totaling \$4.7 million in the: Executive Division (\$300,000), Compliance, Audit, and Performance Management Division (\$500,000), Appellate Division (\$500,000), Parent Child Representation Program (\$500,000), Administrative Services Division (\$500,000), and the Administrative Services Division's Financial Case Management System (\$2.5 million). Due to a projected \$33 million General Fund deficit in THIP, the recommendation is to rebalance the \$4.7 million from their respective programs into the CME for THIP (see Item #4).

Other components of the rebalance are not recommended at this time, but may be re-considered during the 2025 legislative session. For example, some of the savings identified in the Trial Criminal Division may be attributable to funding approved in HB 5204 (2024) to support implementation of HB 4002 (2024) and the recriminalization of certain drug offenses. With caseloads uncertain, any current savings should be retained for their intended purpose. Additionally, the rebalance was not based on the most current public defense caseload forecast (October 2024) issued by the Department of Administrative Services, Office of Economic Analysis, which could impact the accuracy of PDC's biennial projections.

PDC was unable to provide sufficient justification for the \$23.5 million General Fund rebalance of psychological services from CME to PAE, as there has been no change in court practices precipitating the need for such a rebalance, only a change in how defense attorneys request reimbursement. In addition, PDC now believes that the projected \$100,000 General Fund deficit in the Juvenile Trial Division may be able to be managed within the programs' s approved budget and that this portion of the rebalance may no longer needed.

The rebalance also did not account for the reimbursement of Title IV-E expenses across the agency, which are received by PDC as Other Funds. Federal policy allows for the reimbursement of costs associated with legal representation of a child or parent in foster care proceedings as well as the training of contract legal service providers. Since the General Fund is currently charged expenses that otherwise are eligible for Title IV-E, the reimbursement will make General Fund available for rebalance and thereby reduce the agency's need for supplemental funding.

The rebalance, if approved, resolves only a portion of the projected deficit spending for the agency, which persist in CME, PAE, and perhaps the Special Programs, Contracts, and Distribution program and the reimbursement of county discovery costs (\$1.2 million General Fund).

**Recommendation:** The Legislative Fiscal Office recommends that the Emergency Board authorize the transfer of \$300,000 General Fund from the Public Defense Commission, Executive Division; \$500,000 General Fund from the Compliance, and Audit and Performance Division; \$500,000 General Fund from the Appellate Division; \$500,000 General Fund from the Parent Child Representation Program; and \$2,931,524 General Fund from the Administrative Services Division, to Court Mandated Expenses, for a budget rebalance to provide supplemental funding for the Temporary Hourly Increase Program.

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Oregon Public Defense Commission  
Daniel

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**Request:** Transfer of agencywide appropriations to rebalance General Fund.

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

**Discussion:** OPDC is making progress toward solving the state’s unrepresented persons crisis and has dedicated resources to build datasets that help the agency understand the state of the crisis and make data-driven budget decisions. As these datasets evolve, OPDC is better able to project the costs associated with the crisis. However, until OPDC reaches the point where enough data has been collected to produce standard six-month cost averages, they will need to rebalance program funding to cover expenses related to the ongoing unrepresented persons crisis.

As the Temporary Hourly Increase Program (THIP) matures and new agency policies are rolled out within the state’s public defense system, OPDC is able to assign more contracted attorneys to persons eligible for public defense. The use of THIP is an essential part of the state’s response to the unrepresented persons crisis, and the majority of costs related to THIP reside in the Preauthorized Expense (PAE) and Court Mandated Expense (CME) divisions. Recent data collected by OPDC is able to produce a more accurate forecast compared to what was shared with the Emergency Board in September 2024. As a result, OPDC expects the PAE and CME divisions to be overspent by about \$10.2 million and \$8.8 million, respectively.

OPDC requests an agencywide rebalance. Specifically, the Commission requests the following General Fund adjustments: \$6,312,533 to the Court Mandated Expense Division; \$31,168,991 to the Preauthorized Expense Division, collectively; and \$100,000 to the Juvenile Trial Division. Conversely, the Commission requests the transfer from the following: \$2,931,524 from among the Administrative Services, Adult Trial, CAP (Compliance, Audit, and Performance), Executive, Appellate, and Parent Child Representation divisions; and \$23,500,000 from the Court Mandated Expense Division.

**Legal Reference:** Transfer of \$14,081,524 General Fund appropriation made by chapter 481, section 1, Oregon Laws 2023, for the 2023-25 biennium as follows:

<u>Subsection</u>	<u>Amount</u>
(1) Executive Division	\$-300,000
(2) Compliance, Audit, and Performance Division	\$-500,000
(3) Appellate Division	\$-500,000
(4) Adult Trial Division	\$-9,350,000
(5) Juvenile Trial Division	\$+100,000
(6) Preauthorized Expenses	\$+7,668,991
(7) Court Mandated Expenses	\$+6,312,533

(8) Parent Child Representation Program	\$-500,000
(9) Administrative Services Division	\$-2,931,524

Transfer of \$23,500,000 General Fund appropriation made by chapter 481, section 1, Oregon Laws 2023, for the 2023-25 biennium as follows:

<u>Subsection</u>	<u>Amount</u>
(6) Preauthorized Expenses	\$+23,500,000
(7) Court Mandated Expenses	\$-23,500,000



# Oregon

## Oregon Public Defense Commission

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**Nov. 8, 2024**

The Honorable Senator Rob Wagner, Co-Chair  
The Honorable Representative Julie Fahey, Co-Chair  
State Emergency Board  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301

Dear Co-Chairs:

### **Nature of the Request**

The Oregon Public Defense Commission (OPDC) requests to rebalance the projected unobligated savings in its Executive Division; Compliance, Audit, and Performance Division; Appellate Division; Adult Trial Division; Administrative Services Division; Parent Child Representation Program; and Special Programs, Contracts, and Distributions Programs. The aim is to address the projected overages in the Juvenile Trial Division and in the Court Mandated Expenses and Preauthorized Expense programs. The purpose of the rebalance is to fund, through current savings, (1) the additional costs associated with the unrepresented defendant's crisis; (2) the additional costs associated with the temporary hourly rates increase program for attorneys and investigators, which sunsets on Dec. 31, 2024; and (3) the cost overage in the Juvenile Trial division. The rebalance also aims to better align expenditures to budget.

### **Agency Action**

OPDC has prepared a rebalance report based on expenditures as of Sept. 30, 2024, and for projections through June 30, 2025. This report to the December 2024 Emergency Board, addresses and requests critical financial adjustments required to balance the 2023-2025 Legislatively Approved Budget. The report details the requested movement of funding between appropriations to address projected expenditures against the agency's budgetary authority for the remainder of the 2023-2025 biennium.

OPDC is fully focused on trying to solve the unrepresented defendant's crisis. The attached rebalance report explains the agency's plan as it responds to fiscal challenges exacerbated by the state's unrepresented defendant crisis and the evolving demands placed on the public defense system. The commission has taken several actions to address this crisis, but one of the main stumbling blocks is the lack of reliable data. The agency has dedicated resources towards creating data sets to understand the crisis and make data-driven decisions. While the data is continuing to evolve, it has allowed the agency to develop better assumptions to project the costs and problems associated with the crisis and address them to the best of its ability with the staff and funding available.

***Costs associated with the unrepresented persons crisis.***

The Preauthorized Expense budget is expected to be overspent by approximately \$10.2 million through the end of the biennium, as projections have been recalculated for through Sept. 30, 2024. This differs from the Temporary Hourly Increase Program (THIP) report that was presented at the September 2024 Emergency Board. The projections in the previous report used data from earlier in the year, prior to the more mature and refined data that is available for this current report. During the late spring and summer of 2024, the commission made several policy changes to incentivize providers and vendors to engage more actively with the agency as it works to solve the crisis. This budget also realized the increased cost associated with the enhanced rate for investigators who provide services directly for the unrepresented crisis.

The agency took direction from the commission to improve the request for service programs and eliminate any backlog. The agency also took direction from the commission to institute changes in its payment policies and practices to ensure attorneys and others could bill more frequently and be paid within 30 days of receiving an invoice. Through “office hours” sessions for discussion and input and the creation of an accounts payable workgroup, the agency has used partners’ input to improve its essential business processes. These practices and changes have expedited our payment of invoices and our approval of requests for preauthorized expenses. In October 2024, both the preauthorized expense and the accounts payable units surpassed their processing totals from the previous calendar year, which is driving the budget overage.

The financial effect of more frequent payments, more requests for services, and changes to travel is expected to continue. To better reflect the effects of these changes, the budget unit has changed its projection methodology from a quarterly review to a rolling six-month average review. This will allow the agency to better understand the changes and keep track of and report on the effects of the increased caseload, workload, and policy changes. Direct effects include the large increase in the amount of travel payments and the equally, if not larger, increase in the number of psychological services and accompanying travel. It is important to note that the commission’s budget is historically based yet this crisis is not historical. Therefore, these cost overruns reflect better real-time costs of services. They are more fully described in the report under the preauthorized expense budget section.

***Cost associated with the temporary hourly rates increase program for attorneys and investigators, which sunsets Dec. 31, 2024***

The Court Mandated Expenses (CME) budget is projected to be overspent by approximately \$8.8 million as projections through the end of the biennium have been recalculated through Sept. 30, 2024. This presents a different picture than was presented at the September 2024 Emergency Board. Previous projections used data from earlier in the year, prior to the more mature and refined data that is available for this current report. During the late spring and summer of 2024, the commission made several policy changes to incentivize attorneys and others to engage more actively with the agency as it works to solve the crisis. The CME budget provides for expenses required by the court, mainly hourly attorney costs and psychological evaluations.

The current coverage is presented without factoring in two hires that approved by the September 2024 Emergency Board to help with case assignments for the Temporary Hourly Increase Program (THIP), which provides enhanced hourly rates to public defenders who accept appointments to in-custody unrepresented persons. The two new assignment coordinators have increased then number of assigned cases. We expect this trend to continue not only for THIP, but for hourly assignments overall. See chart below.

Hourly Assignments by Analyst			
THIP and non-THIP combined			
Date Completed	cathy.c.hoffman@ opds.state.or.us	kathryn.m.stiller@ opds.state.or.us	Total
October 2024	385	333	<b>718</b>
September 2024	323	107	<b>429</b>
August 2024	289	115	<b>404</b>
July 2024	231	92	<b>323</b>
<b>Total</b>	<b>1215</b>	<b>644</b>	<b>1857</b>

Like the preauthorized expense budget, to better reflect the effects of these changes, the budget unit has changed its projection methodology from a quarterly review to a rolling six-month average review. This strategy allows the agency to better understand the changes and keep track of and report on the effects of the increased caseload and policy changes. Direct effects include the large increase in the number of monthly payments to attorneys at varying rates, which is enticing to providers as they are no longer expected to carry the cost of cases through the life of the case.

***Funding to cover the overage in the Juvenile Trial division.***

On Nov. 1, 2024, a full-time attorney was added to a contract firm in Marion County to address a caseload need. This action, while necessary, will cause the Juvenile Trial division to eventually spend above its budgeted authority. To mitigate this potential, overspend, the agency is requesting to move \$100,000 out of the General Fund to this division’s budget.

***Technical budget move to better align expenditures to budget.***

The agency is requesting to move most of the budget (\$23.5 million) for psychiatric services from Court Mandated Expense (CME) to Preauthorized Expense (PAE), leaving funding in CME for those requests that are still court mandated. This move will align with and support a technical adjustment (package 060) in the 2025-27 current service-level budget.



General fund budget authority for psychiatric services was moved out of PAE (non-routine expenses at the time) and into CME due to a shift in how these services were being requested in the 2021-2023 biennium.

During the current biennium, this practice has shifted, and these services are being requested through the preauthorized expense process. Approximately \$16.16 million of expenditures for psychological services and related travel were moved from the PAE budget to the CME budget. This accounting action was necessary to ensure that PAE remains within budgeted authority until this requested rebalance occurs.

The agency plans to reverse the \$16.6 million expenditure move once the rebalance of this budget authority is completed to again ensure expenditures occur where the budget is. If the rebalance action is not approved, the agency will continue to make the necessary accounting actions to allow the PAE budget to remain within authority.

***Addressing the budget problem***

To partially address the projected overages in the Preapproved Expense and Court Mandated Expense programs and in the Juvenile division, the agency is requesting the following actions, which are further detailed in the attached rebalance report:

<b>December 2024 E- Board Request</b>			
<b>General Fund</b>	<b>Increase</b>	<b>Reduction</b>	<b>Total</b>
Court Mandate Expenses		(23,500,000)	(23,500,000)
Preauthorized Expense	23,500,000		23,500,000
			-
Administrative Services Division		(2,931,524)	(2,931,524)
Adult Trial Division-contracts		(8,150,000)	(8,150,000)
Adult Trial Division-pilot		(1,200,000)	(1,200,000)
Compliance, Audit, and Performance Division		(500,000)	(500,000)
Executive Division		(300,000)	(300,000)
Appellate Division		(500,000)	(500,000)
Parent Child Representation Program		(500,000)	(500,000)
Juvenile Trial Division	100,000	-	100,000
Court Mandated Expense	6,312,533		6,312,533
Preauthorized Expense	7,668,991		7,668,991
<b>Totals</b>	<b>37,581,524</b>	<b>(37,581,524)</b>	<b>-</b>

## Action Requested

The commission requests (1) that Court Mandated Expense is appropriated \$6,312,533 in General Fund budget and expenditure authority; (2) that Preauthorized Expense is appropriated \$7,668,991 in General Fund budget and expenditure authority; (3) that the Administrative Services Division, Adult Trial Division, Compliance, Audit and Performance Division, Executive Division, Appellate Division, and Parent Child Representation Program are dis-appropriated by \$2,931,524; \$9,350,000; \$500,000; \$300,000; \$500,000; and \$500,000, respectively, in General Fund budget and expenditure authority; (4) that the Juvenile Trial Division is appropriated \$100,000 in General Fund budget and expenditure authority; (5) that Preauthorized Expense is appropriated \$23,500,000 in General Fund budget and expenditure authority; and (6) that Court Mandated Expense is disappropriated \$23,500,000 in General Fund budget and expenditure authority.

## Legislation Affected

Oregon Laws 2023, chapter 481, section 1(7).	\$6,312,533
Oregon Laws 2023, chapter 481, section 1(6).	\$7,668,991
Oregon Laws 2023, chapter 481, section 1(5).	\$100,000
Oregon Laws 2023, chapter 481, section 1(9).	(\$2,931,524)
Oregon Laws 2023, chapter 481, section 1(4).	(\$9,350,000)
Oregon Laws 2023, chapter 481, section 1(2).	(\$500,000)
Oregon Laws 2023, chapter 481, section 1(1).	(\$300,000)
Oregon Laws 2023, chapter 481, section 1(3).	(\$500,000)
Oregon Laws 2023, chapter 481, section 1(8).	(\$500,000)
Oregon Laws 2023, chapter 481, section 1(6).	\$23,500,000
Oregon Laws 2023, chapter 481, section 1(7).	(\$23,500,000)

Sincerely,



Jessica Kampfe  
Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer  
John Borden, Principal Legislative Analyst, LFO  
Kate Nass, Chief Financial Officer  
Allison Daniel, Policy and Budget Analyst, CFO

# Oregon Public Defense Commission

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**DECEMBER 2024 REBALANCE REPORT & PLAN**

Ralph H. Amador

NOVEMBER 8, 2024

## NATURE OF THE REPORT

The Oregon Public Defense Commission is submitting a request to rebalance the 2023-2025 legislatively approved budget to the December 2024 Emergency Board. This report reflects an anticipated need to rebalance between appropriations that were established by the 82<sup>nd</sup> Legislative Assembly in the 2023 legislative session for various needs.

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## EXECUTIVE SUMMARY

The Oregon Public Defense Commission (OPDC) submits this rebalance report to the December 2024 Emergency Board, addressing the critical financial adjustments required for the 2023-2025 legislatively approved budget. The rebalance plan responds to fiscal challenges exacerbated by the state's unrepresented defendant crisis and the evolving demands placed on the public defense system.

The report details the commission's current budget, projects that need to be added and changes that need to be made. It also includes a plan for moving funding between appropriations to remain within the agency's budgetary authority for the remainder of the 2023-2025 biennium.

Key drivers of this rebalance request include:

1. **Unrepresented Defendant Crisis:** OPDC continues to grapple with a severe shortage of public defenders, leading to systemic delays, increased caseloads, and budgetary strain. Efforts to address this crisis have necessitated significant investments in staffing and services, particularly within the adult trial division and the preauthorized and court-mandated expense budgets.
2. **SB 337 (2023):** This legislative action laid out a framework for public defense reform, compelling OPDC to adopt new rules, policies, and procedures. Implementation of these mandates has intensified budget volatility as the agency seeks to adapt its operations and workforce to meet growing demand.
3. **Budget Overages:** OPDC projects substantial overages in court-mandated expenses and preauthorized expenses, largely due to increased hourly caseloads, enhanced attorney and investigation costs, and increased spending on psychological services, travel, and other defense-related expenses. The agency has already taken steps to shift these costs but requires additional budget rebalancing to cover the deficits.
4. **Rebalancing Actions:** The report outlines a detailed plan to mitigate projected overages by reallocating \$14.08 million from various divisions, including savings from administrative and appellate operations. Key elements of this plan include:
  - Transfers of savings from divisions with budget surpluses, such as the administrative services and adult trial divisions.
  - Projected savings from the budget for a financial and case management system.
  - Funding additional unprojected costs in the juvenile trial division for caseloads.
  - Provides funding to partially address the projected overages in court mandated expense and preauthorized expenses programs.
  - Corrects a budget to expenditure alignment issued between the hourly programs.

OPDC remains committed to resolving the public defense crisis by improving data collection, aligning expenditures with real-time service needs, and adhering to national caseload standards. However, continued financial and legislative support will be essential to ensure that the agency can meet its constitutional mandate and maintain the integrity of Oregon's public defense system.

## THE PUBLIC DEFENDER CRISIS IN OREGON: AN EXAMINATION

OPDC is combatting an entrenched problem: too few public defenders to meet the needs of Oregon's criminal justice system. This creates a constitutional crisis where Oregonians who qualify for a public defender do not have access to representation. To address this problem, OPDC must create systemic solutions that increase and stabilize our public defense workforce while protecting Oregonians' right to effective representation. We must, working in partnership with our public safety colleagues, address issues and inefficiencies across the system that stand in the way of this goal.

In 2021, the Legislature amended Oregon's public defense statute to require the commission to adopt caseloads based on national and regional best practices and adopt a workload plan. In 2021, the commission adopted annual maximum attorney caseloads (MAC) as an interim solution. The adoption of MAC revealed the true scope of Oregon's public defender shortage. While MAC was a fiscally conservative solution and an essential first step, it has shortcomings that are exacerbating the crisis. The MAC standard only regulates the annual number of cases a lawyer may accept. It does not account for the number of hours needed for each case. Further, the standard itself is based on caseload models of the 1970s and, therefore, does not reflect the current complexities of public defense work. In short, it does not accurately utilize the attorneys available, does not ensure quality representation, and impedes recruitment of attorneys.

OPDC has enacted the following initiatives to address the unrepresented persons crisis:

- Opened three trial offices with state employees providing direct representation to public defense clients in Oregon's circuit courts.
- Increased the number of public defenders appointed to represent clients under contracts with OPDC.
- Increased the number of part-time public defenders appointed to represent clients under hourly agreements with OPDC.
- Funded recruitment and retention efforts for contracted public defenders.
- Collaborated with public safety partners to improve coordination and communication regarding unrepresented persons.
- Improved ongoing data collection and sharing.

Despite numerous initiatives, the list of unrepresented persons who are in custody remains consistent, while the list of unrepresented persons out of custody has grown. Thus, although the commission has taken steps to address the constitutional crisis, the problem remains significant and will only fully improve when we have adequate funding to enact the new caseload and workload standards adopted by the commission in May 2024. The 2024 standards directly address the shortcomings of the 2021 MAC to allow OPDC to maximize the attorneys available while also creating a model that supports the recruitment and retention of effective attorneys. But we cannot do it alone. Public safety inefficiencies must be addressed systemwide to promote long-term solutions to the crisis.

## BUDGET IMPACTS

**Historical Funding:** The commission's budget is constructed in accordance with established state budgeting rules and is therefore historically based. This means that the biennial budget, at its core, is the funding required to continue providing the current level of service, with inflation added on to specific line items for the upcoming budget cycle. This current service level of funding is based on historical expenditures from the previous period. There is consideration of additional funding for increasing caseloads as they are recognized by the official forecast, however this only applies to specific programs and only for the anticipated new case appointments in the upcoming period. If all things are equal, this methodology works, and during each budget cycle there is a period where the agency can request additional funding to address new programs, agency needs, and the effects of legislative and policy changes.

The problem this creates for the commission and its budget is that the unrepresented persons crisis has not historically been recognized and therefore was not a normally recognized expenditure when the current budget was created. Although there have been several funding additions to attempt to resolve the crisis, the evolution of the crisis has grown far beyond what could have been anticipated. This dynamic has caused areas of the budget to grow faster than anticipated and has changed the established methods for how services are compensated.

**SB 337 Implementation:** The 82<sup>nd</sup> Legislative Assembly made significant changes to the commission through Senate Bill 337 (2023), which provides a framework for developing public defense in Oregon. OPDC is now charged with creating and adopting rules, policies, and procedures to implement the mandated goals. Three sets of data inform the plan for providing public defense in Oregon:

1. The public defense forecast evaluated by the Department of Administrative Services' Office of Economic Analysis.
2. Caseload and workload standards, such as those in the American Bar Association's *The Oregon Project* and RAND's *National Public Defense Workload Standards*; and
3. Economic studies by third parties.

Applying those data to accepted standards for calculating appropriate workloads will provide the commission, Legislature, and governor with a calculation of the number of public defense lawyers needed in Oregon to represent all persons who qualify for a court-appointed attorney within constitutionally mandated caseloads. It will also provide cost information related to that representation. Using the nationally accepted formula for this calculation will allow the commission to meet its obligation under the Constitution and ORS 151.216 and ensure caseloads and workloads align with national and regional best practices.

**Commission Actions:** Over the past two years, the commission has taken several actions to address this crisis. One of the main stumbling blocks is the lack of reliable data. Neither OPDC nor its partners had ever tracked the issue of unrepresented persons. As a result, OPDC needed to dedicate resources to creating datasets to first understand the crisis and then use the data to make decisions. While the data are still not perfect, OPDC has tracked the problem and addressed it to the best of its ability with the staff and funding available.

The commission needed to address the issues of compensation, recruitment, and retention not only for public defenders but also among the various investigators, interpreters, psychologists and others who perform the necessary services to provide adequate representation. This included changing policies and processes to make case appointments, approve requested services, and pay invoices in a timely manner. With those changes come additional expenditures that have not previously been recognized by the commission's budget. This creates a need



to move resources to where they are needed in lieu of where they have been historically budgeted. Also, because we are now paying providers faster, this tightens the elasticity of the budget.

The commission forecasts a deficit in court-mandated expenses and preauthorized expenses because of the changing nature of providing public defense. As the commission continues to evolve and implement the mandates outlined in SB 337, there will be volatility. The agency may need to continue to ask for rebalance actions until the program areas settle, the unrepresented crisis is under control, and the shortage of public defenders is solved.

## FINANCIAL FORECASTS

The chart below demonstrates the current financial situation through Sept. 30, 2024. This chart does reflect a reclassification of expenditures relating to psychological services to include travel from preauthorized expenses, where they are recognized, to court-mandated expenses, where the budget sits. This action is necessary to ensure that the preauthorized expenses division remains solvent until rebalance actions are taken. This chart does not demonstrate the proposed rebalance moves. It does demonstrate where current savings reside.

<i>Month Ending September 30, 2024</i>	<i>LAB</i>	<i>Forecast</i>	<i>Variance</i>
Administrative Services Division	26,884,921	21,827,854	5,057,067
Adult Trial Divison	290,008,379	275,038,471	14,969,908
Appellate Division	26,424,696	25,864,093	560,603
Compliance, Audit, and Performance Division	7,069,293	6,412,616	656,677
Court Mandated Expenses	80,282,573	89,170,106	(8,887,533)
Executive Division	4,647,432	4,096,502	550,930
Juvenile Trial Division	51,227,439	51,304,662	(77,223)
Preauthorized Expenses	58,617,686	68,861,676	(10,243,990)
Parent-Child Representation Program	56,634,287	56,015,996	618,291
Special Programs, Contracts, and Distributions	12,438,908	13,591,324	(1,152,416)
<b>TOTAL FUNDS</b>	<b>614,235,614</b>	<b>612,183,300</b>	<b>2,052,314</b>

## DIVISION SUMMARIES

### EXECUTIVE DIVISION

Executive Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	3,975,649	2,045,525	1,548,503	0	3,594,028	(381,621)
Services and Supplies	671,783	163,379	339,095	0	502,474	(169,309)
<b>Total Funds</b>	<b>4,647,432</b>	<b>2,208,904</b>	<b>1,887,598</b>	<b>0</b>	<b>4,096,502</b>	<b>(550,930)</b>

#### Status Update:

- The executive division is projected to end the biennium within its budgeted authority.
- All positions are either filled or projected to be filled for the remainder of the biennium. Each position has any expected step increases factored in as well as the expected second cost-of-living adjustment (COLA) in early 2025.
- The division anticipates increased costs associated with the attorney general’s office, especially when the commission moves to the executive branch.
- The division will continue to monitor expenses associated with ethics counsel as they represent OPDC staff attorneys in litigation pertaining to the unrepresented persons crisis.
- The agency shows a modest projected savings and will offer funding to rebalance.

#### Next Steps:

- Continue to monitor expenditures and avoid large expenditures, especially ones that have not been included in the current projections.
- This division will offer \$300,000 of General Fund to mitigate other projected overages.

## COMPLIANCE, AUDIT, AND PERFORMANCE

Compliance, Audit, and Performance Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	6,839,209	3,146,548	3,151,719	0	6,298,267	(540,942)
Services and Supplies	230,084	114,349		0	114,349	(115,735)
<b>Total Funds</b>	<b>7,069,293</b>	<b>3,260,897</b>	<b>3,151,719</b>	<b>0</b>	<b>6,412,616</b>	<b>(656,677)</b>

### Status Update:

- The compliance, audit, and performance (CAP) division is projected to end the biennium within budget.
- All positions are either filled or projected to be filled for the remainder of the biennium. Each position has any expected step increases factored in as well as the expected second COLA in early 2025.
- The division anticipates increased unbudgeted costs associated with the attorney general's office as that office works with the commission to create a new master contract(s) for providers. There may also be other additional costs with increased representation as the commission moves to the executive branch.
- CAP received two unbudgeted, limited-duration positions at the September E-Board. These positions will act as case assignment coordinators for the unrepresented persons crisis. Recruitment is in process. The expenditures for these positions are included in remaining projections.
- The division shows a modest projected savings and will offer funding to rebalance.

### Next Steps:

- Continue to monitor expenditures and avoid large expenditures, especially ones that have not been included in the current projections.
- This division will offer \$500,000 of General Fund to mitigate other projected overages.

## APPELLATE DIVISION

Appellate Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	26,150,482	15,354,706	10,261,976	0	25,616,682	(533,800)
Services and Supplies	274,214	247,411	0	0	247,411	(26,803)
<b>Total Funds</b>	<b>26,424,696</b>	<b>15,602,117</b>	<b>10,261,976</b>	<b>0</b>	<b>25,864,093</b>	<b>(560,603)</b>

### Status Update:

- The appellate division, which includes both criminal and juvenile, is projected to end the biennium within budget.
- All positions are either filled or projected to be filled for the remainder of the biennium. Each position has any expected step increases factored in as well as the expected second COLA in early 2025.
- The division will continue to monitor expenses associated with outside counsel as they represent OPDC appellate attorneys where a judge had appointed OPDC staff attorneys to unrepresented persons cases for which they are not qualified to provide representation.
- The division has incorporated the necessary training dollars to meet the Continuing Legal Education requirements of staff.
- The division shows a modest projected savings and will offer funding to rebalance.

### Next Steps:

- Continue to monitor expenditures and avoid large expenditures, especially ones that have not been included in the current projections.
- This division will offer \$500,000 of General Fund to mitigate other projected overages.

## ADULT TRIAL DIVISION

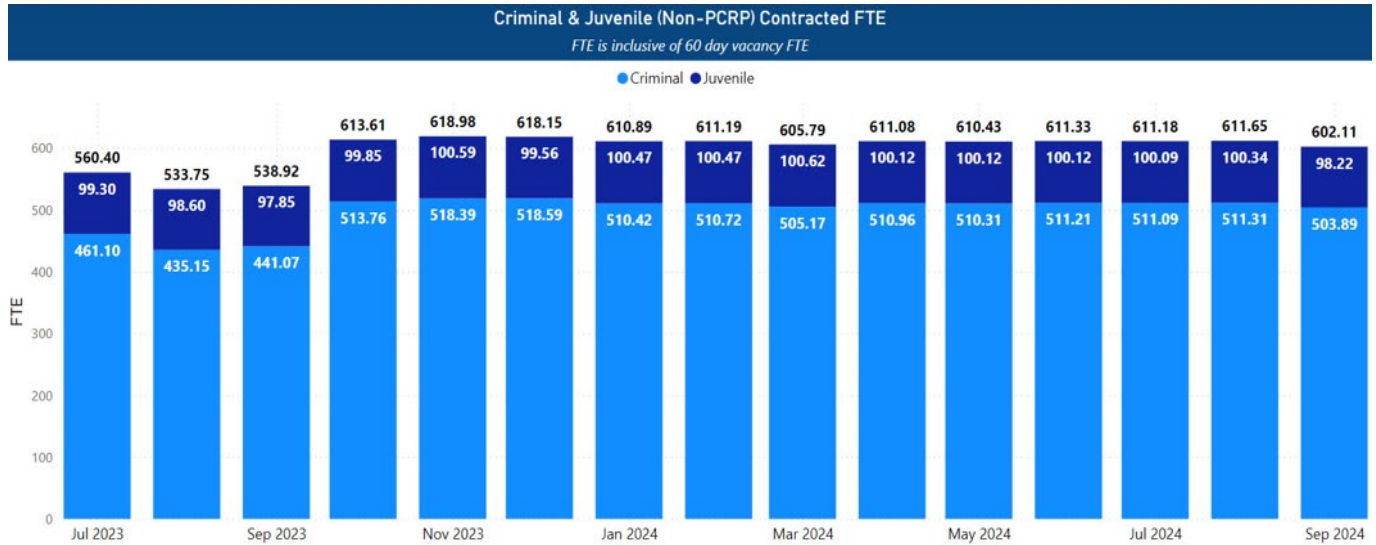
Adult Trial Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	8,777,562	2,440,913	4,911,727	0	7,352,640	(1,424,922)
Services and Supplies	281,230,817	165,770,771	101,997,918	0	267,768,689	(13,462,128)
<b>Total Funds</b>	<b>290,008,379</b>	<b>168,211,684</b>	<b>106,909,645</b>	<b>0</b>	<b>275,121,329</b>	<b>(14,887,050)</b>

Adult Trial Division w/o Pilot Project						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	145,441	58,080	0	0	58,080	(87,361)
Services and Supplies	279,137,800	165,373,275	100,858,095	0	266,231,370	(12,906,430)
<b>Total Funds</b>	<b>279,283,241</b>	<b>165,431,355</b>	<b>100,858,095</b>	<b>0</b>	<b>266,289,450</b>	<b>(12,993,791)</b>

### Status Update:

- The first chart above is a wholistic view of the adult trial division. This includes provider contracts and funding for the pilot project, which is described in the next section. The second chart removes the funding associated with the pilot project demonstrates the savings absent the pilot project, which are around \$12.99 million.
- OPDC’s contracting is aligned with the biennial budget. Provider contracts are from July 1, 2023, to June 30, 2025. Costs and maximum attorney caseloads (MAC) are prorated when attorneys change their MAC or join or start a contract mid-cycle. MAC totals can fluctuate throughout a contract cycle as providers enter and exit contracts. MAC for a contract can be increased when a contractor identifies an attorney qualified to handle public defense cases and requests that OPDC authorize and fund that attorney to provide public defense services. MAC increases are only permitted when funded MAC is available.
- There have been several additional financial investments in this program area that have not been capitalized on. Continued vacancies in the system are adding to or allowing the positive budget variance to remain consistently high, which undermines the program’s efforts to increase capacity.
- The agency has obligated approximately \$4.75 million of the \$12.99 million projected savings for the remainder of the current biennium. These obligations are confirmed additions to contracts, meaning the contractor has firm commitment and a relatively certain effective or start date, or contractors are recruiting attorneys and OPDC has committed to provide funding when qualified attorneys can be added. This also includes funding for case managers and paralegals as provided in House Bill 5204 in support of House Bill 4002. As these obligations materialize, the agency expects to add approximately 22.84 attorney FTE to the November totals of 487.05 filled attorney FTE. The program is currently carrying 13 FTE vacancies, which is down considerably from the all-time high of 28.33 vacant FTE that the started the month of October 2024. These additions are extremely important as our contractors are our first line in combating the unrepresented crisis. Having and maintaining full contracts is an important factor in managing the crisis.
- **Chart 1** reveals a consistent drop in the amount of contracted full-time equivalency (FTE) in this program area. Since the high of 518.59 in December 2023, the level has not recovered.

**Chart 1**



- There has been a consistent increase in the number of hourly cases available.
- There has been a consistent number of firms and attorneys shutting off or temporarily not accepting cases in a specific period for various reasons. This adds to the unrepresented numbers as the cases cannot be assigned as planned.
- **Table 1** displays attorney retention since July 2023. A total of 109 public defenders have left the contracted ranks. The data accounts for 36 of these individuals as they are still in the system in some capacity. There is no accounting for 73, which is problematic in an environment where there is a documented shortage of public defenders.

**Table 1**

Contract Attorney Retention Since July 1, 2023								
HomeCounty	New Attys	Departed Attys	Net Attys	New Atty FTE	Departed Atty FTE	Departed Attys Now Hourly	Departed Attys Now State Trial	Atty Loss to Public Defense
Benton	2	1	1	1.95	0.95	1		0
Clackamas	6	4	2	5.67	1.55	2		2
Clatsop	1	1	0	0.99	0.98			1
Clatsop, Columbia	1		1	1.00				
Clatsop, Tillamook		1	-1		0.00			1
Columbia	1	1	0		0.10			1
Coos		4	-4		3.25	3		1
Coos, Curry, Douglas, Jackson, Josephine, Klamath		1	-1		0.00	1		0
Crook, Jefferson	1	1	0	1.00				1
Deschutes	8	12	-4	5.94	11.56			12
Douglas	3	3	0	2.20	2.95	3		0
Gilliam, Hood River, Sherman, Wasco, Wheeler	1	1	0	0.97	0.97			1
Grant, Harney	2	2	0	0.75	1.55			2
Jackson	7	8	-1	5.70	7.84		2	6
Josephine	1	2	-1	0.70	2.00	1		1
Klamath	3	2	1	2.55	1.00	1		1
Lake	1	2	-1	1.00	0.70			2
Lane	6	3	3	5.75	1.75	1		2
Lincoln	2	1	1	1.45	1.00			1
Linn	4	2	2	3.15	2.85	1		1
Malheur	4	1	3	3.80	1.00	1		0
Marion	13	16	-3	10.48	14.65	4	3	9
Morrow, Umatilla	1	1	0	0.40	0.40			1
Multnomah	21	18	3	19.00	17.60	3		15
Polk	4		4	2.45				
Statewide	3	1	2	2.30	0.00			1
Umatilla	2	2	0	2.00	1.50			2
Washington	18	20	-2	14.33	15.71	7	2	11
Yamhill	1		1	1.00				
<b>Total</b>	<b>116</b>	<b>109</b>	<b>7</b>	<b>96.53</b>	<b>91.86</b>	<b>29</b>	<b>7</b>	<b>73</b>

**Next Steps:**

- This program area has significant savings that can be shifted to where the caseload and cost are growing.
  - Moving \$8.15 million of program savings to rebalance problems in the hourly programs.
- Implement the actions associated with the programs plan for obligated funds.
- Continue to work with contactors to monitor and maintain contracts, relationships, and caseloads.
- Continue to keep the budget dashboard in real time and in sync with the contract database.
- Continue to meet with program staff and the data team.



## ADULT TRIAL DIVISION – PILOT PROJECT

Pilot Project						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	8,632,121	2,382,833	4,911,727	0	7,294,560	(1,337,561)
Services and Supplies	2,093,017	397,496	1,139,823	0	1,537,319	(555,698)
<b>Total Funds</b>	<b>10,725,138</b>	<b>2,780,329</b>	<b>6,026,857</b>	<b>0</b>	<b>8,788,422</b>	<b>(1,893,259)</b>

### Status Update:

- The above numbers are included in the overall adult trial division as the pilot project is a subset of this appropriation. The information in this section is intended to stand alone.
- During September, we created a more refined view of this program. This was done to update the personal services projections to a more realistic level that was reflective of the program’s hiring plan. We also aimed to identify savings that could be used to support potential changes to this program.
- OPDC has made significant progress in the policy area. In less than a year, the agency has opened three trial division offices and hired approximately 50 staff members. State attorneys have been assigned over 500 cases, mostly from the unrepresented list.
- All positions are either filled or projected to be filled for the remainder of the biennium. Each position has any expected step increases factored in as well as the expected second COLA in early 2025.
- There is a growing need for immediate coverage in the southwest corner of the state. We submitted a request to the Emergency Board in September, but it was deferred. We will present a scaled-down version at the Emergency Board in December.
- The agency will need additional space in Medford and Portland to accommodate the increased number of staff who will be added in 2025-2027 to keep pace with the requirements of SB 337.

### Next Steps:

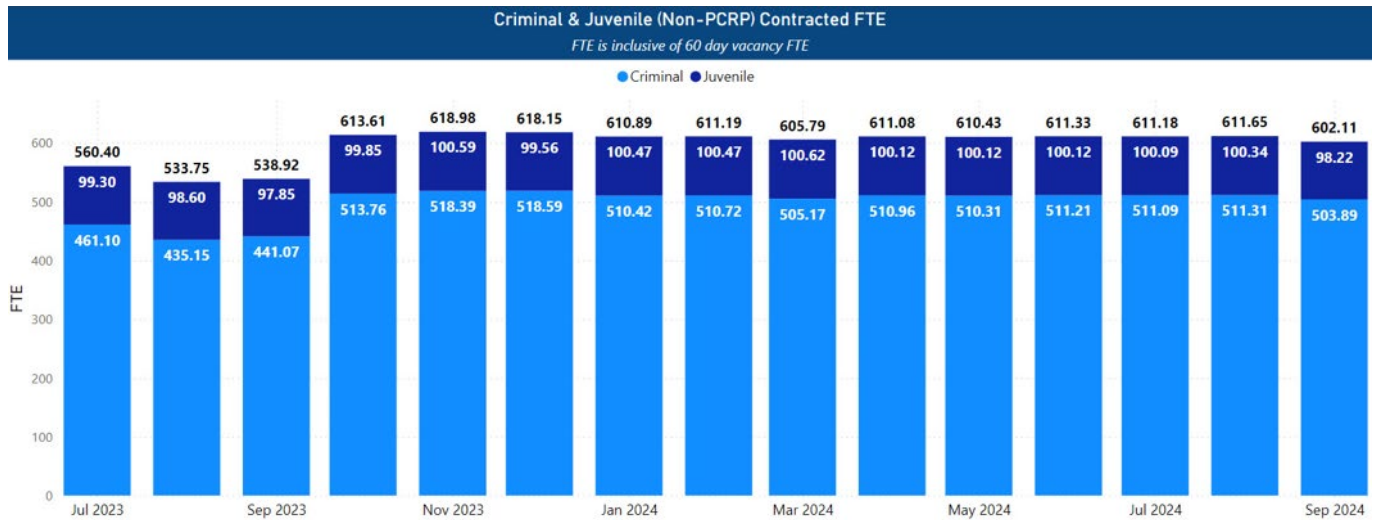
- This program will contribute \$1.2 million of projected savings to the rebalance problem.
- The program will focus on these three initiatives:
- Submit an Emergency Board request position authority to establish a southwest public defender office, which the agency will fund for the remainder of the 2023-2025 biennium with current savings.
- Seel to expand our presence in Medford to meet growing needs and additional public defenders mandated by SB 337.
- Seek to move our Portland office from Interstate Avenue possibly to available state space in the Portland State Office Building to meet growing needs and to accommodate additional public defenders mandated by SB 337.
- Develop business cases for the proposed expansions to include the 2025-27 roll-up costs, as the proposed 2025-27 current service-level budget, as submitted, may not support the extra costs for expansion and additional space.
- Continue to monitor expenditures and avoid large expenditures, especially ones that have not been included in the current projections.

## JUVENILE TRIAL DIVISION

Juvenile Trial Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	46,875,439	31,919,924	19,384,738	(4,352,000)	46,952,662	77,223
Other Funds						
Services and Supplies	4,352,000	0	0	4,352,000	4,352,000	0
<b>Total Funds</b>	<b>51,227,439</b>	<b>31,919,924</b>	<b>19,384,738</b>	<b>0</b>	<b>51,304,662</b>	<b>77,223</b>

### Status Update:

- The Juvenile Division shows a slight overage due to the additional unprojected cost to cover caseload.
- The charts below demonstrate the consistency of FTE and vacancies in this program area.



**Juvenile (Non-PCRP) Contracted Vacancy FTE**

Contract County	July 2023	Sept 2023	Jan 2024	July 2024	Sept 2024
Clackamas					0.60
Deschutes	0.15				
Jackson					0.20
Josephine		0.30			
Lane				0.80	
Malheur				0.70	
Washington			0.40		0.90
<b>Total</b>	<b>0.15</b>	<b>0.30</b>	<b>0.40</b>	<b>1.50</b>	<b>1.70</b>

### Next Steps:

- Continue to work with contactors to monitor and maintain contracts, relationships, and caseloads.
- Continue to keep the budget dashboard in real time and in sync with the contract database.
- Continue to meet with program staff and the data team.
- Reclassify expenditure to recognize Title IV-E funding as received from the Oregon Department of Human Services – Child Welfare Division.
- Use \$100,000 of agency savings to cover the additional caseload cost.

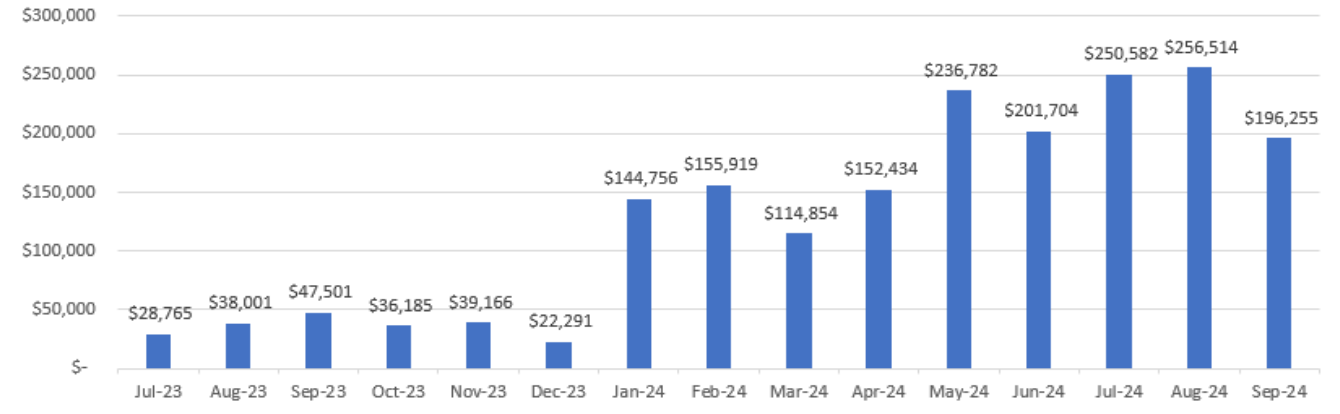
## PREAUTHORIZED EXPENSES

Preauthorized Expenses						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	58,617,685	36,887,830	55,473,846	(23,500,000)	68,861,676	10,243,991
Other Funds						
Services and Supplies	1	0	0	0	0	(1)
<b>Total Funds</b>	<b>58,617,686</b>	<b>36,887,830</b>	<b>55,473,846</b>	<b>(23,500,000)</b>	<b>68,861,676</b>	<b>10,243,990</b>

### Status Update:

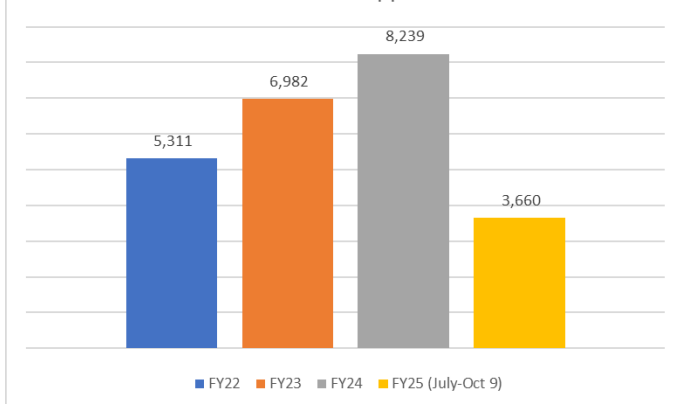
- This budget is currently projected to be overspent by more than \$10.2 million, with the assumption that the Temporary Hourly Increase Program (THIP) sunsets on Dec. 31, 2024, as scheduled. This projection differs from when the agency last reported. At the last report, the commission made a series of changes that altered the direction of expenditures to budgeted authority. These changes were made in response to the unrepresented persons crisis and the previous extensions and maturity of THIP.
- Through time and several process and business improvements and partnerships, the agency has been better able to identify and project expenses and to validate some previous projections as they relate directly to THIP and the crisis. While THIP has a lesser effect on this budget, the unrepresented persons crisis is the main driver of these increases.
- The agency is currently able to see some stability in how the expenditures are materializing and has begun using a 6-month rolling average to project expenditures for the remainder of the biennium.
- General fund budget authority for psychiatric services was moved out of preauthorized expenses (PAE) (non-routine expenses at the time) and into court-mandated expenses (CME) due to a shift in how these services were being requested in the 2021-2023 biennium. At the current service level, the authority was returned to PAE.
- Approximately \$16.16 million of expenditures for psychological services and related travel were moved from this budget to the CME budget. This action is necessary to ensure that PAE remains within budgeted authority until rebalance actions occur.
- As a part of this rebalance, the agency is requesting to move most of the budget (\$23.5 million) for psychiatric services from CME to PAE, leaving funding for those requests that are still court mandated. This move will align and support a technical adjustment (package 060) in the 2025-27 current service-level budget.
- Since the onset of the unrepresented defendant and persons crisis, the request for services has increased significantly. To keep up, the unit hired three people since the new year. One of those positions became permanent on July 1, 2024. At the Emergency Board in September, the agency was given two unbudgeted, limited-duration positions for the remainder of the biennium.
- Effective Jan. 1, 2024, the commission made several policy changes:
  - 8.8% increase in provider rates. This matched the inflation increase given to the agency for providers.
  - Approved full hourly rate of pay for travel for all vendors, except flat-rate vendors who were later approved for up to \$75 per hour. These changes were not included in the agency budget.
- The chart below shows the increase in travel cost because of these changes.
- The average amount from July–December 2023 was \$35,318 while the average amount from January–August 2024 was \$189,193, which is an increase of 436%.

Travel Time Expenditures by Month/Year (PAE)

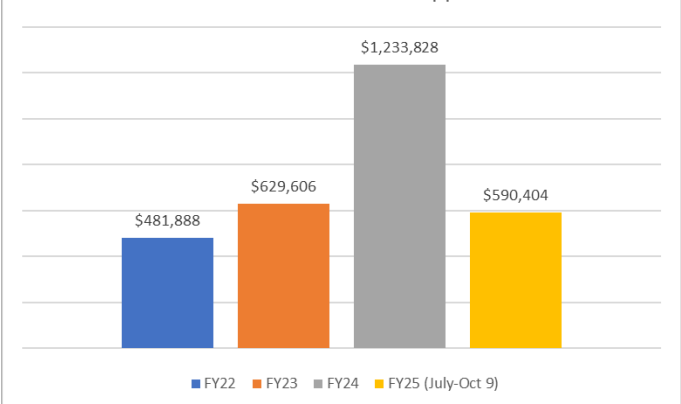


- The other unexpected increase in this area is psychological services and accompanying travel.
  - FY 2022 to FY 2023 shows an increase in hours approved for services of 5.28% and an increase of 8.99% in the amount of dollars approved for services.
  - FY 2023 to FY 2024 shows an increase in hours approved for services of 9.46% and an increase of 16.68% in the amount of dollars approved for services.
- The travel changes have had another unplanned expenditure, which is demonstrated on the charts below. The amount paid for each service is being increased. Previously, travel was assumed in the rate paid, but now it is an additional expenditure on top of the increasing number of services being approved. Isolating to just psychological services travel:
  - FY 2022 to FY 2023 shows an increase in hours approved for travel of 31.46% and an increase of 30.65% in the amount of dollars approved for travel.
  - FY 2023 to FY 2024 shows an increase in hours approved for travel of 18.00% and an increase of 95.97% in the amount of dollars approved for travel.
- At this point, we have approved more psychological and related travel than we have budget.

Travel Hours Approved



Amount of Travel Hours Approved



**Next Steps:**

- Monitor all PAE expenditures monthly to each agency object.
- Update projections monthly in accordance with six-month rolling average.

- Reproject the expenditures for psychological and related services.
- Rebalance the psychological and related services budget from the CME budget to the PAE budget, leaving money in CME to account for those requests that are truly court-ordered through the State Hospital.
- Reverse the \$16 million expenditure move done in September 2024, bringing the expenditures back into PAE from CME along with the budget.
- Rebalance \$7,688,991 of other agency unobligated savings to this budget. This leaves a need of \$2,750,000 to account for projected expenditures through the end of the biennium.

## COURT MANDATED EXPENSES

Court Mandated Expenses						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	75,832,906	53,150,940	8,069,499	23,500,000	84,720,439	8,887,533
Other Funds						
Services and Supplies	858,122	429,213	0	0	429,213	(428,909)
Special Payments	3,591,545	696,936	0	0	696,936	(2,894,609)
<b>Total Funds</b>	<b>80,282,573</b>	<b>54,277,089</b>	<b>8,069,499</b>	<b>23,500,000</b>	<b>85,846,588</b>	<b>5,564,015</b>

### Status Update:

- This budget is projecting to be overspent by more than \$8.8 million, with the assumption that the Temporary Hourly Increase Program (THIP) sunsets on Dec. 31, 2024, as scheduled. This projection differs from when the agency last reported. At the last report, the commission had made a series of changes that have altered the direction of expenditures to budgeted authority. These changes were made in response to unrepresented persons crisis and the further extension and maturity of THIP.
- Through time and several process and business improvements as well as partnerships, the agency has been better able to identify and project expenses and to validate some previous projections as they relate directly to THIP and the crisis.
- The agency sees some stability in how the expenditures are materializing and has begun using a 6-month rolling average to project expenditures for the remainder of the biennium.
- Psychological services budget dollars were moved out of preauthorized expenses (PAE) (non-routine expenses at the time) and into court-mandated expenses (CME) due to a shift in how these services were being requested in the 2021-2023 biennium. In 2023-2025, expenditures continue to be realized in PAE, therefore there is a need to move the budgeted funds back through this rebalance request.
- As a part of this rebalance, the agency is requesting to move most of the budget (\$23.5 million) for psychiatric services from CME to PAE, leaving funding for those requests that are still court mandated. This move will align and support a technical adjustment (package 060) in the 2025-27 current service level budget.
- Approximately \$16.16 million of expenditures for psychological services and related travel were moved from the PAE budget to this budget. This action is necessary to ensure that PAE remains within budgeted authority until rebalance actions occur.
- The reports below are included to demonstrate that the number of hourly assignments is steadily increasing. Having limited resources, the agency started with one assignment coordinator and added another, but we have not been able to keep pace even though the caseload for unrepresented has been limited to those in custody.
- The CAP division received two unbudgeted, limited-duration positions at the September E-Board. These positions will act as case assignment coordinators for the unrepresented persons crisis.
- **Chart 1** below demonstrates the increase in the rolling 7-day average due to the addition of the second assignment coordinator and the introduction and implementation of a new process that automates the case assignment process.
- The additional case assignment coordinators are expected to help the agency find more attorneys, assign more cases, and lower the in-custody caseload.
- The adult trial division has seen a marked decrease in the number of attorneys on contract. Since July 2023, there has been a loss of 109 public defenders from contracts. Twenty-nine moved to taking unrepresented and THIP cases, seven joined OPDC and 73 are unknown. **Chart 2** shows the increase of THIP attorneys who are taking cases.
- More cases at the enhanced rates means more expenditures that are not covered by the budget. **Table 1** shows the consistency of this caseload and the dynamic problem the agency continues to chase.

Chart 1

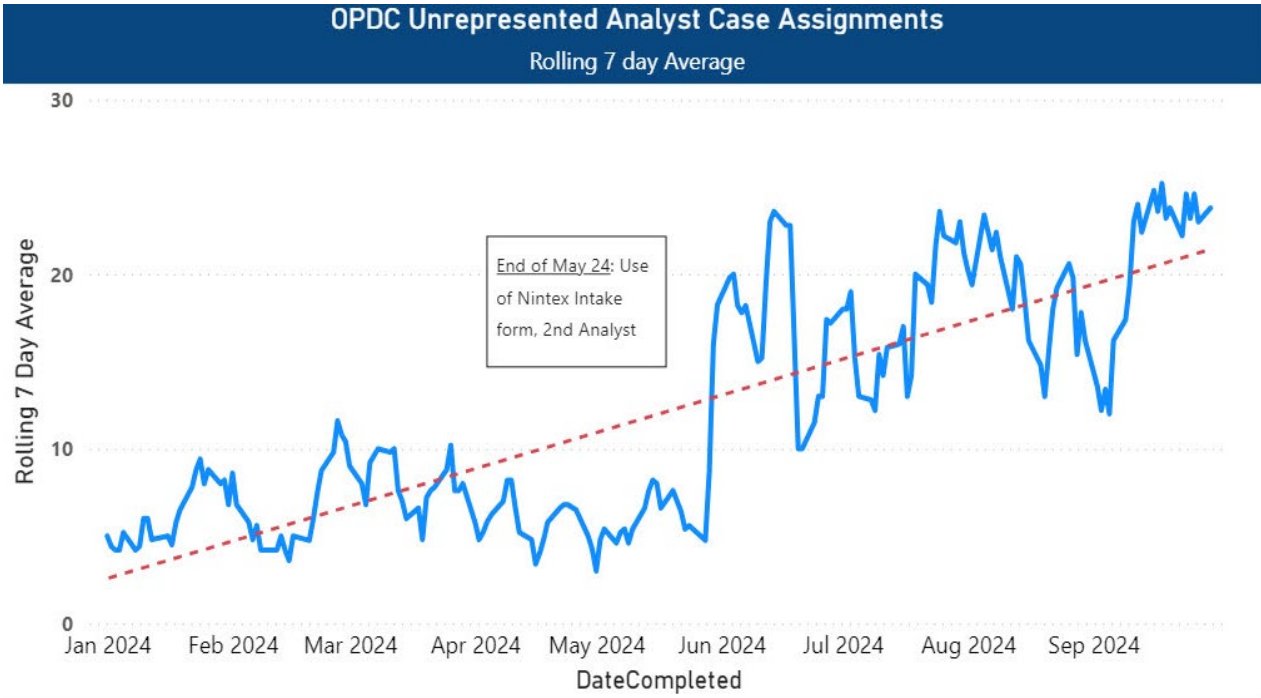
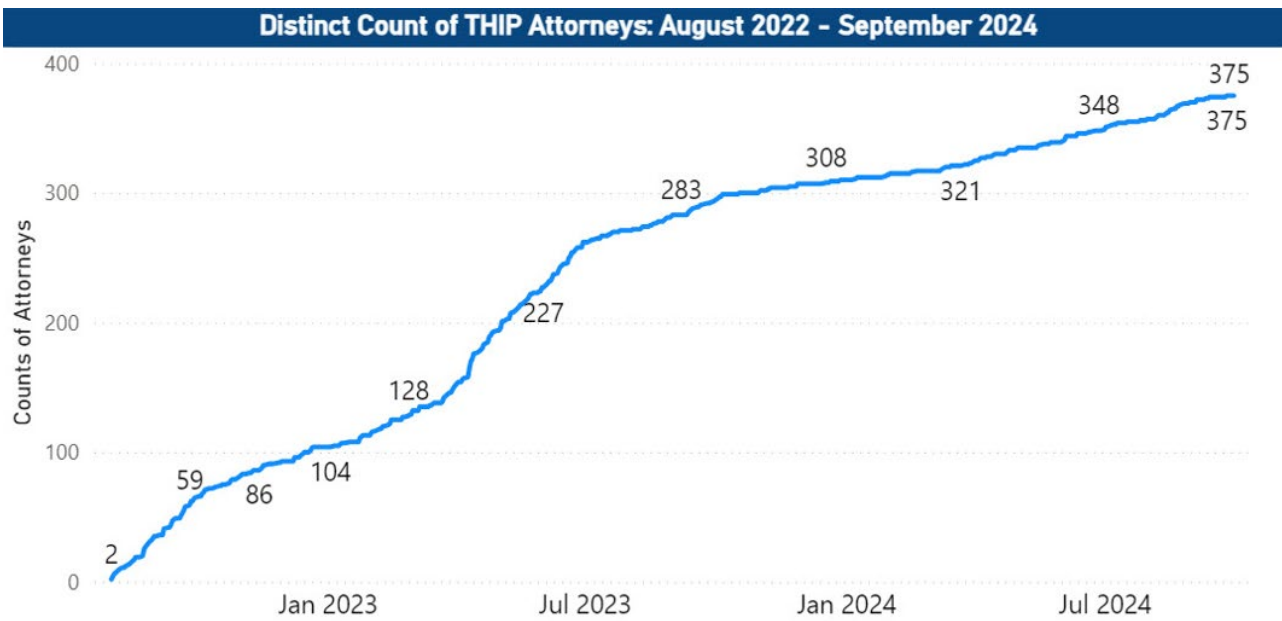


Chart 2



**Table 1**

THIP Caseload by Time			
Minimum Effective Date	Attorney Count	Client Count	Case Count
☒ July 2023	82	317	402
☒ August 2023	97	330	418
☒ September 2023	104	439	554
☒ October 2023	50	90	143
☒ November 2023	46	83	111
☒ December 2023	50	101	150
☒ January 2024	55	96	131
☒ February 2024	40	68	120
☒ March 2024	64	107	177
☒ April 2024	65	92	134
☒ May 2024	62	119	190
☒ June 2024	74	145	211
☒ July 2024	96	205	268
☒ August 2024	91	170	250
☒ September 2024	85	157	220
<b>Total</b>	<b>302</b>	<b>2,377</b>	<b>3,479</b>

**Next Steps:**

- Monitor all CME expenditures monthly and compare to each agency object code.
- Update projections monthly in accordance with six-month rolling average.
- Monitor the active caseloads, on both the contracted and the hourly.
- Continue to try to find a way to track the hourly cases.
- Continue to push for hourly contracts for all hourly attorneys to get an accurate headcount.
- Reproject the expenditures for enhanced attorney and related enhanced services.
- Rebalance psychological and related services budget from CME budget to the PAE budget, leaving money in CME to account for those requests that are truly court-ordered through the State Hospital.
- Reverse the \$16 million expenditure move done in September 2024, sending the expenditures back to PAE from CME along with the budget.
- Rebalance \$6,312,533 of other agency unobligated savings to this budget. This leaves a need of \$2,750,000 to account for projected expenditures through the end of the biennium.



## PARENT CHILD REPRESENTATION PROGRAM

Parent Child Representation Program						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	443,905	269,408	174,497	0	443,905	0
Services and Supplies	44,222,382	32,382,175	23,184,920	(11,968,000)	43,599,095	(623,287)
<b>Other Funds</b>						
Services and Supplies	11,968,000	0	0	11,968,000	11,968,000	0
<b>Total Funds</b>	<b>56,634,287</b>	<b>32,651,583</b>	<b>23,359,417</b>	<b>0</b>	<b>56,011,000</b>	<b>(623,287)</b>

### Status Update:

- Parent Child Representation Program (PCRP) shows a positive variance in the program area.
- There is a slight overage in personal services, which is solved by the overall positive variance.
- This program is the model of consistency due to the nature of the program, the limited number of counties, higher compensation and staffing assistance, and the limited caseload.

### Next Steps:

- Continue to work with contactors to monitor and maintain contracts, relationships, and caseloads.
- Continue to keep the budget dashboard in real time and in sync with the contract database.
- Continue to meet with program staff and the data team.
- Reclassify expenditure to recognize Title IV-E funding as received from the Oregon Department of Human Services – Child Welfare Division.
- This program looks to transfer \$500,000 of General Fund to help address the rebalance issues.

## ADMINISTRATIVE SERVICES DIVISION

Administrative Services Division						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	13,500,299	7,696,319	5,195,260	0	12,891,579	(608,720)
Services and Supplies	13,384,622	4,666,643	4,269,631	0	8,936,274	(4,448,348)
<b>Total Funds</b>	<b>26,884,921</b>	<b>12,362,962</b>	<b>9,464,891</b>	<b>0</b>	<b>21,827,853</b>	<b>(5,057,068)</b>

### Status Update:

- The administrative services division (ASD) is projected to end the biennium with budget.
- All positions are either filled or projected to be filled for the remainder of the biennium. Each position has any expected step increases factored in as well as the expected second COLA in early 2025.
- The division anticipates increased unbudgeted costs associated with the attorney general's office, especially when the commission matriculates to the executive branch.
- Established three permanent full-time positions (0.99 FTE) and approved the downward reclassification of four permanent positions for procurement and contract administration. We are currently hiring one procurement specialist 2 and will start recruitments for two procurement specialist 1 positions and a procurement manager. One program analyst 4 is currently being recruited as there are incumbents for the three newly established positions.
- Established one limited-duration position (0.38 FTE) for a chief data officer; two limited-duration positions (1.00 FTE) for preauthorization of contractor expenses; and three limited-duration positions (1.38 FTE) for accounts payable activities. All positions are currently in recruitment.
- The agency shows a modest projected savings and will offer funding to rebalance.

### Next Steps:

- Continue to monitor expenditures and avoid large expenditures, especially ones that have not been included in the current projections.
- This division will offer \$2,931,524 of General Fund to mitigate other agency projected overages. \$500,000 will come from all of ASD, and \$2,431,524 will come from the financial and case management system's (FCMS) budget (see below).

Administrative Services Division, Finance and Case Management System						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Personal Services	1,502,706	549,972	563,515	0	1,113,487	(389,219)
Services and Supplies	7,154,030	511,296	2,682,761	0	3,194,057	(3,959,973)
<b>Total Funds</b>	<b>8,656,736</b>	<b>1,061,268</b>	<b>3,246,276</b>	<b>0</b>	<b>4,307,544</b>	<b>(4,349,192)</b>

### Status Update for FCMS:

- These numbers are in the overall table for the administrative services division. This section is purely informational to highlight the separation between this budget and the rest of the division's budget.
- The FCMS project projects a savings of \$4.3 million. This is a result of the timing of the project. Because the project is in the planning phase, the agency is using a basic projection model for services and supplies, which, if not spent, will contribute to the accumulated savings variance at the end of each month. Personal services projections are actual costs to include any step increases for staff and projected COLAs that are scheduled to appear.
- The project is finishing stage gate 2. All documents for portfolio management review (P3) have been completed. Stage gate 2 documents are 100% complete for final stage gate 2 review.
- Change management for the project is underway. Moss Adams is the contracted vendor and has launched the discovery phase, worked with OPDC on a communications plan, and started interviewing stakeholders.

- The Request for Proposal (RFP) was posted on Oregon Buys on Oct. 15.
- Program health remains amber due to budget, resource, and schedule health concerns. Scope health updates are green due to RFP approval. Scope is stable and is being properly managed through the change control process.

**Next Steps:**

- Moss Adams change management consulting track - Moss Adams is engaging stakeholders in individual and group interviews. Survey of providers closes Dec. 6.
- The agency proposes to use \$2,431,524 in project funds towards the rebalance. Here are the assumptions:
- As of September 2024, the project had spent \$1 million.
  - The projections for personal services will stay the same as the 6-month rolling average.
- Services and supplies (S&S) S&S in this budget are mainly IT professional services. The next 9-month projections are to spend \$2.6 million, leaving \$3.9 million in savings.
- There is a risk that the \$2.6 million plus the \$1.4 million of remaining variance savings (\$4 million in total) will not be enough to cover the project costs for the next nine months.
- The agency assumes that there will not be major project spending until after a contract is negotiated and signed, which is expected to occur in spring of 2025.
- What is not known is what the activities will be after the contract is signed.
- Will it be licensing or design, development, and implementation before the end of the biennium? The assumption is that project billing and payment by the selected vendor will be made in accordance with a contract deliverable plan – meaning we don't pay in advance, only after a deliverable has been invoiced and met.

**SPECIAL PROGRAMS, CONTRACTS, AND DISTRIBUTIONS**

<b>Special Programs, Contracts, and Distributions</b>						
<b>General Fund</b>	<b>LAB</b>	<b>Expenditures</b>	<b>Projections</b>	<b>Adjustments</b>	<b>Forecast</b>	<b>Variance</b>
Services and Supplies	10,855,627	6,964,043	5,049,000	0	12,013,043	1,157,416
<b>Other Funds</b>						
Services and Supplies	1,583,281	1,578,281	0	0	1,578,281	(5,000)
<b>Total Funds</b>	<b>12,438,908</b>	<b>8,542,324</b>	<b>5,049,000</b>	<b>0</b>	<b>13,591,324</b>	<b>1,152,416</b>

**Status Update:**

- An overage is projected due to the unknown amounts of discovery invoices that may be submitted. There is no pattern for how or when discovery invoices will be submitted to the commission for payment or for how much. The only constant is that we are required to pay the invoices when submitted.
- As there is no forecast or methodology, the agency has no mechanism to request additional funds to cover any overage. This is one area where we can only pay what we have.
- Contract payments that were placed in this budget are progressing on schedule.
- Contract payments for guardianship are going out as scheduled.
- We have requested and received all funding for the Byrne grant.
- This area has no funding to add to the rebalance plan.

**Next Steps:**

- Continue to monitor this budget.
- Report to the executive team when the budget gets below \$2 million so that we can communicate to vendors that our discovery funding is running out.
- Update projections to better reflect the remaining funding available for discovery payments.

## REBALANCE

### REBALANCE PLAN

- The first action that is being requested is to move the budget for psychological services and related services from court-mandated expenses to preauthorized expenses, leaving enough money in court-mandated expenses to account for those requests that are truly court-ordered through the State Hospital. This action will align the budget with expenditures. A part of this overall action will be administrative in nature as the agency will need to reverse the \$16.1 million expenditure move that was done in September.
- The second action that will inform the need for this rebalance is the reprojection of expenses in both court-mandated expenses and preauthorized expenses. These reprojections are the six-month rolling average of recent expenditures in these program areas. This six-month average is important and applicable due to the recent changes the commission has made to various policies and procedures, which has changed the behavior of the expenditures. The projections are presented with the assumption that THIP sunsets in December 2025. There is a subsequent request to extend THIP through June 2025, in which case the below projections will need to be changed to reflect the effects of the extension.
- The revised projections have produced the following issues:
  - Court-mandated expenses is now projecting a General Fund overage of \$8,887,533.
  - Preauthorized expenses is now projecting a General Fund overage of \$10,243,990.
  - The rebalance will also provide additional funds to the juvenile trial division’s unplanned spend.

Court Mandated Expenses						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	75,832,906	53,150,940	8,069,499	23,500,000	84,720,439	8,887,533
<b>Other Funds</b>						
Services and Supplies	858,122	429,213	0	0	429,213	(428,909)
Special Payments	3,591,545	696,936	0	0	696,936	(2,894,609)
<b>Total Funds</b>	<b>80,282,573</b>	<b>54,277,089</b>	<b>8,069,499</b>	<b>23,500,000</b>	<b>85,846,588</b>	<b>5,564,015</b>

Preauthorized Expenses						
General Fund	LAB	Expenditures	Projections	Adjustments	Forecast	Variance
Services and Supplies	58,617,685	36,887,830	55,473,846	(23,500,000)	68,861,676	10,243,991
<b>Other Funds</b>						
Services and Supplies	1	0	0	0	0	(1)
<b>Total Funds</b>	<b>58,617,686</b>	<b>36,887,830</b>	<b>55,473,846</b>	<b>(23,500,000)</b>	<b>68,861,676</b>	<b>10,243,990</b>

To mitigate these projected overages, the agency is requesting the following through a rebalancing action:

- Move \$500,000 of General Fund from the administrative services division.
- Move \$2,931,524 of General Fund from the financial and case management system (ASD).
- Move \$8,150,000 of General Fund from the adult trial division.
- Move \$1,200,000 of General Fund from the adult trial division’s pilot project funds.
- Move \$500,000 of General Fund from the appellate division.
- Move \$500,000 of General Fund from the compliance, audit, and performance Division.
- Move \$300,000 of General Fund from the executive division.
- Move \$500,000 of General Fund from the Parent Child Representation Program.
- Move \$100,000 of General Fund to the juvenile trial division.

- Move \$6,312,533 of General Fund to court-mandated expenses.
- Move \$7,668,991 of General Fund to preauthorized expenses.
- Move \$23,500,000 of General Fund to preauthorized expenses.
- Move \$23,500,000 of General Fund from court-Mandated expenses.
- These actions will produce \$14,081,524 General Fund to partially solve the \$19,131,524 General Fund projected overage. (see schedule below).

## REBALANCE SCHEDULE

December 2024 E- Board Request				
General Fund	Increase	Reduction	Total	Legal Citation
Court Mandate Expenses		(23,500,000)	(23,500,000)	Oregon Laws 2023, Chapter 481, section 1(7)
Preauthorized Expense	23,500,000		23,500,000	Oregon Laws 2023, Chapter 481, section 1(6)
			-	
Administrative Services Division		(2,931,524)	(2,931,524)	Oregon Laws 2023, Chapter 481, section 1(9)
Adult Trial Division-contracts		(8,150,000)	(8,150,000)	Oregon Laws 2023, Chapter 481, section 1(4)
Adult Trial Division-pilot		(1,200,000)	(1,200,000)	Oregon Laws 2023, Chapter 481, section 1(4)
Compliance, Audit, and Performance Division		(500,000)	(500,000)	Oregon Laws 2023, Chapter 481, section 1(2)
Executive Division		(300,000)	(300,000)	Oregon Laws 2023, Chapter 481, section 1(1)
Appellate Division		(500,000)	(500,000)	Oregon Laws 2023, Chapter 481, section 1(3)
Parent Child Representation Program		(500,000)	(500,000)	Oregon Laws 2023, Chapter 481, section 1(8)
Juvenile Trial Division	100,000	-	100,000	Oregon Laws 2023, Chapter 481, section 1(5)
Court Mandated Expense	6,312,533		6,312,533	Oregon Laws 2023, Chapter 481, section 1(7)
Preauthorized Expense	7,668,991		7,668,991	Oregon Laws 2023, Chapter 481, section 1(6)
<b>Totals</b>	<b>37,581,524</b>	<b>(37,581,524)</b>	<b>-</b>	