

Public Defense Report

An update on OPDC's comprehensive public defense report

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OPDC Executive Director

Presentation to
House and Senate Judiciary Committees

Dec. 11, 2024



Outline

Where we are

- Progress implementing SB 337 since April 2024
- Overview of contract and state attorneys

Unrepresented status update

- Trends
- Betschart assignments
- Temporary Hourly Increase Program

Where we're going

- Timeline
- Hourly system
- Policies and programs

Where we are

Progress implementing SB 337 since April 2024

Commission adopted a workload standard

- National Public Defense Workload Standard set to 2,080 work hours for state employees and contracted public defenders, or 1,578 billable hours for hourly public defenders

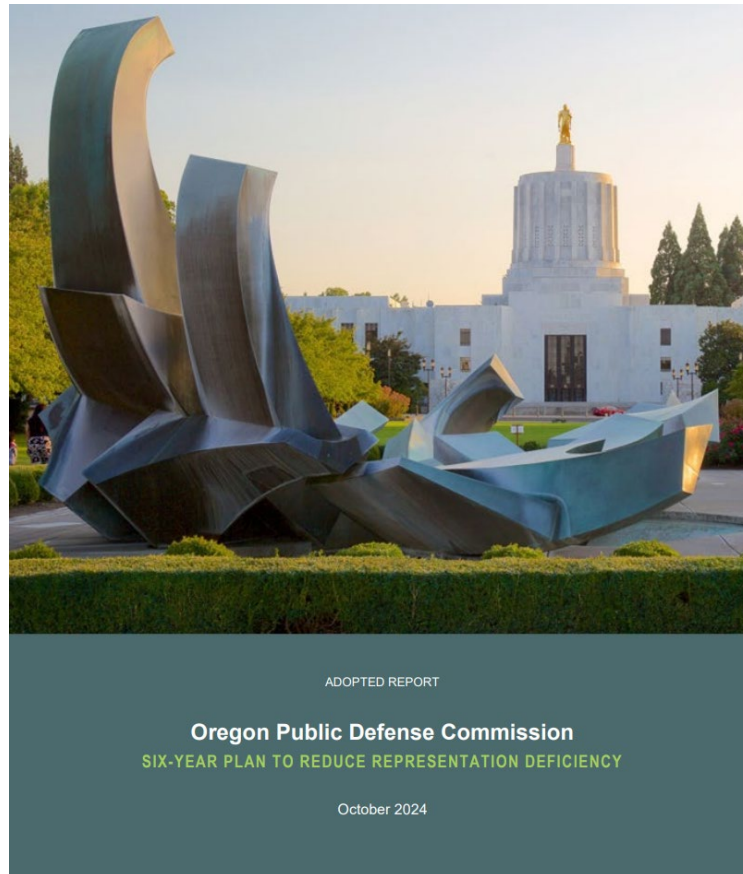
Conducted an economic analysis to determine hourly pay rate

- Chose the median hourly rate of \$205/\$230 per hour for attorneys

Collaborated with Office of Economic Analysis to forecast caseloads

Commission adopted 6-year plan

Goal is to eliminate the shortage of public defenders

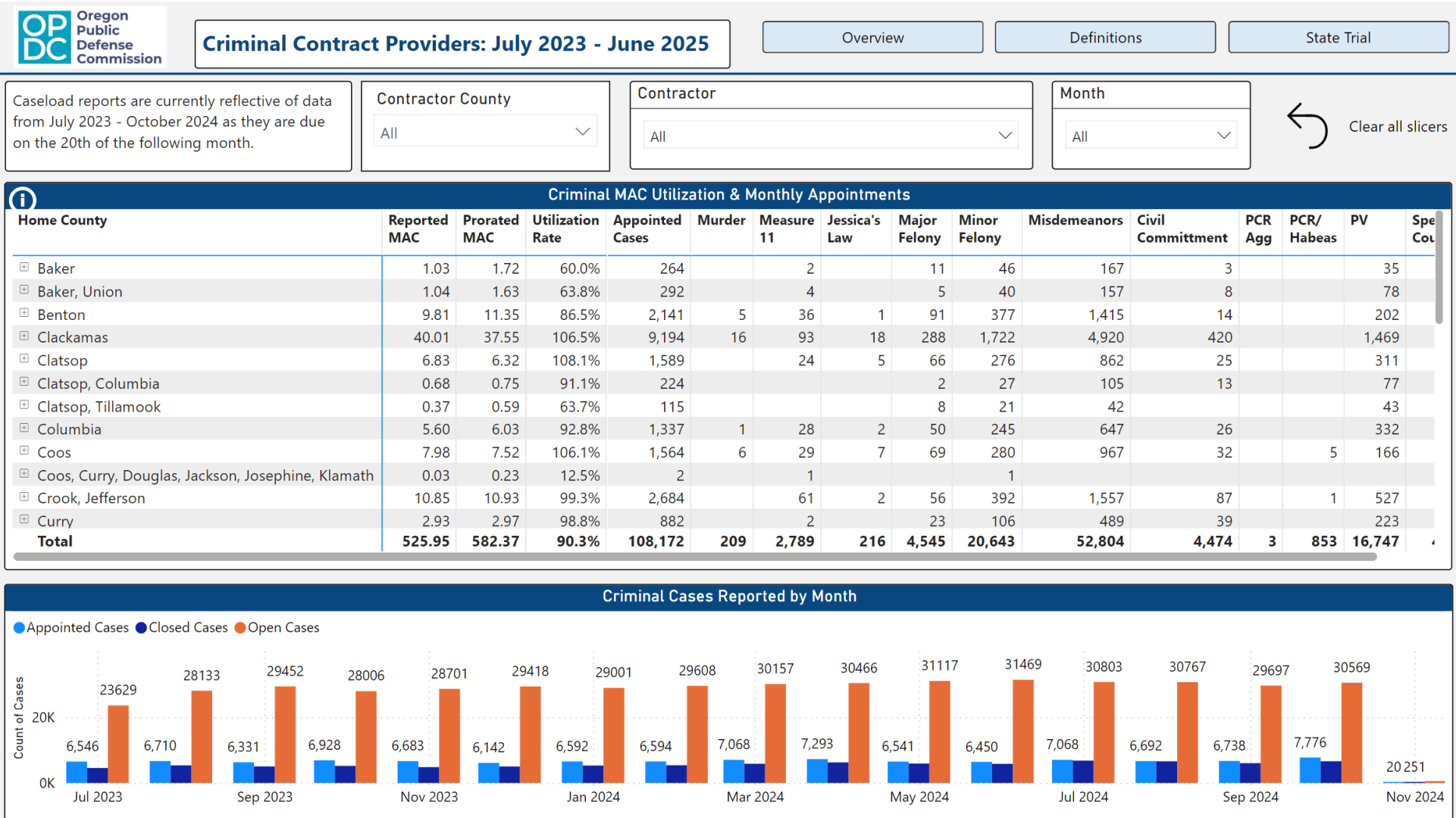


Read the plan at
bit.ly/6_year_plan

Most public defense representation is contracted

- Contracts pay a fixed fee each month
- Based on maximum attorney caseload
- For criminal cases, we currently contract:
 - 19 nonprofits with 248 attorneys
 - 27 consortia with 252 attorneys
 - 52 firms and sole proprietorships with 86 attorneys

2023-25 contracted attorneys' caseload dashboard



State employees

- Required by SB 337
- First office opened Dec. 2023
- 20 attorneys
- 800+ cases



Salem



Medford



Portland

State attorneys



State Trial Division

Overview

Definitions

Criminal Contracts

This data refreshes at 10am and is reflective of end of day yesterday.

County

All

Office Location

All

Case Status

All



Clear all slicers

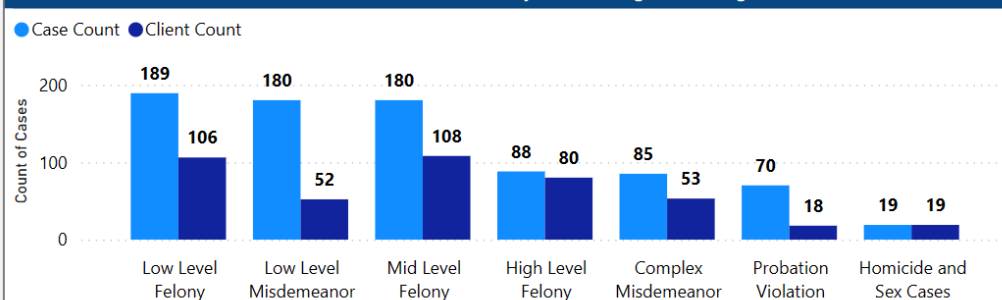
State Trial Division Caseload

County	Homicide & Sex	High Level Felony	Mid Level Felony	Low Level Felony	Complex Misdemeanor	Low Level Misdemeanor	Probation Violation	Total Cases
Clackamas				1	1			2
Coos	1	2		1	1	4		9
Deschutes	1	1				1	1	4
Douglas	3	6	6	13	2	4	4	37
Grant				2	1	3	4	10
Harney			1	1				2
Jackson	5	32	74	44	45	67	25	292
Klamath	2	6	3	5	1	3		20
Lane			3	4		2		9
Marion	2	14	17	36	14	39	17	139
Multnomah	2	12	24	21	4	25	6	124
Total	19	88	180	189	85	180	70	810

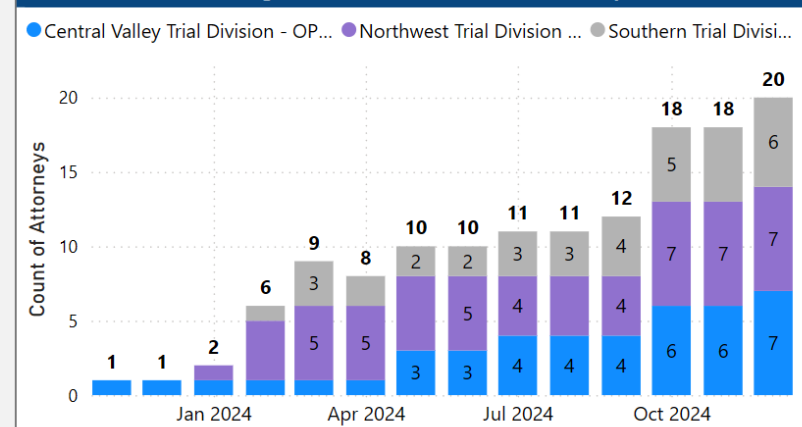
State Trial Division Caseload

Contractor	Open Case Weight	Active Attorneys	Average Case Weight per Attorney	Case Weight Utilization
Central Valley Trial Division - OPDC Trial	9,818.13	7	1,402.59	67.43%
Northwest Trial Division - OPDC Trial	13,027.07	7	1,861.01	89.47%
Southern Trial Division - OPDC Trial	8,505.25	6	1,701.05	81.78%
Total	31,350.45	20	1,650.02	79.33%

State Trial Division Cases by Client's Highest Charge

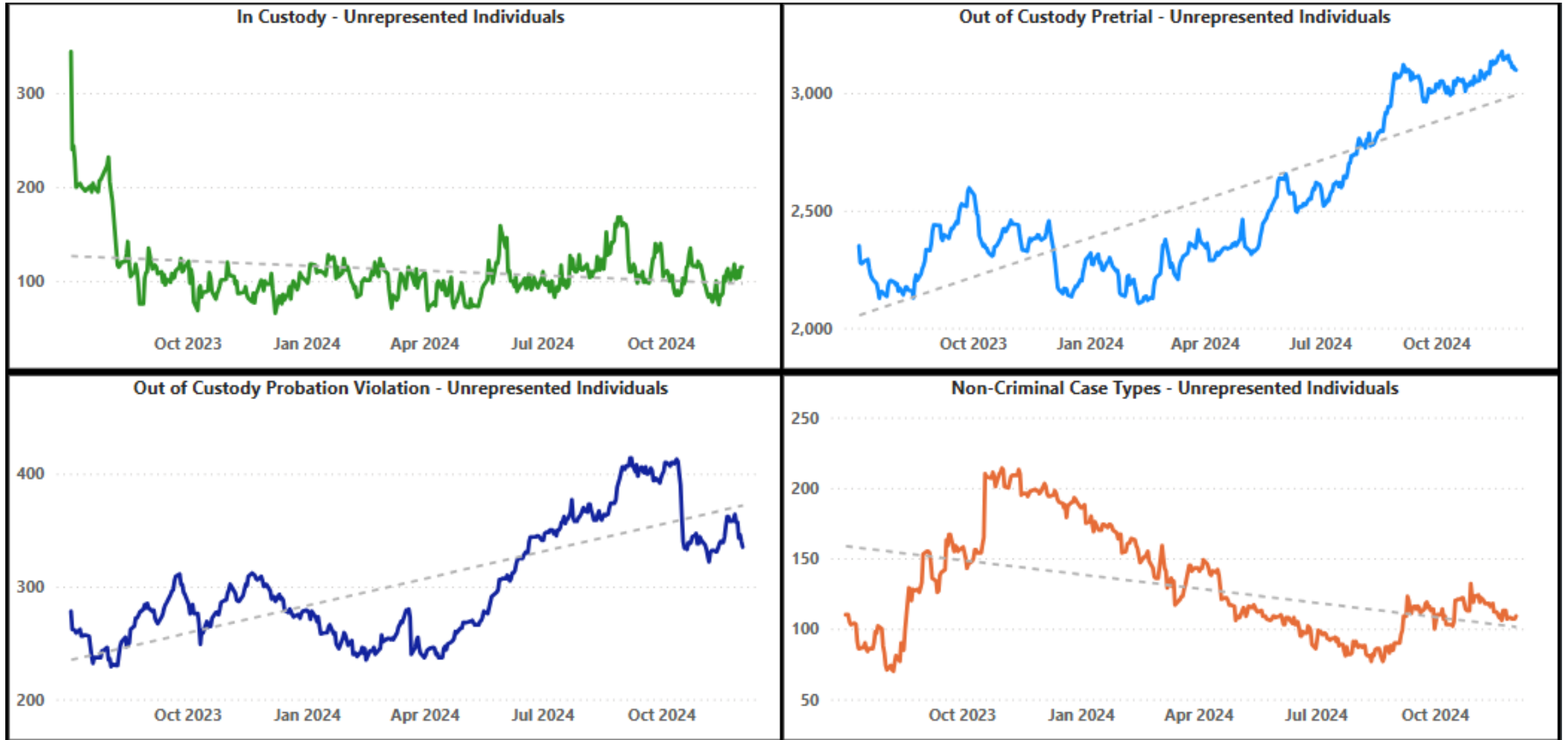


Rolling Count of State Trial Division Attorneys



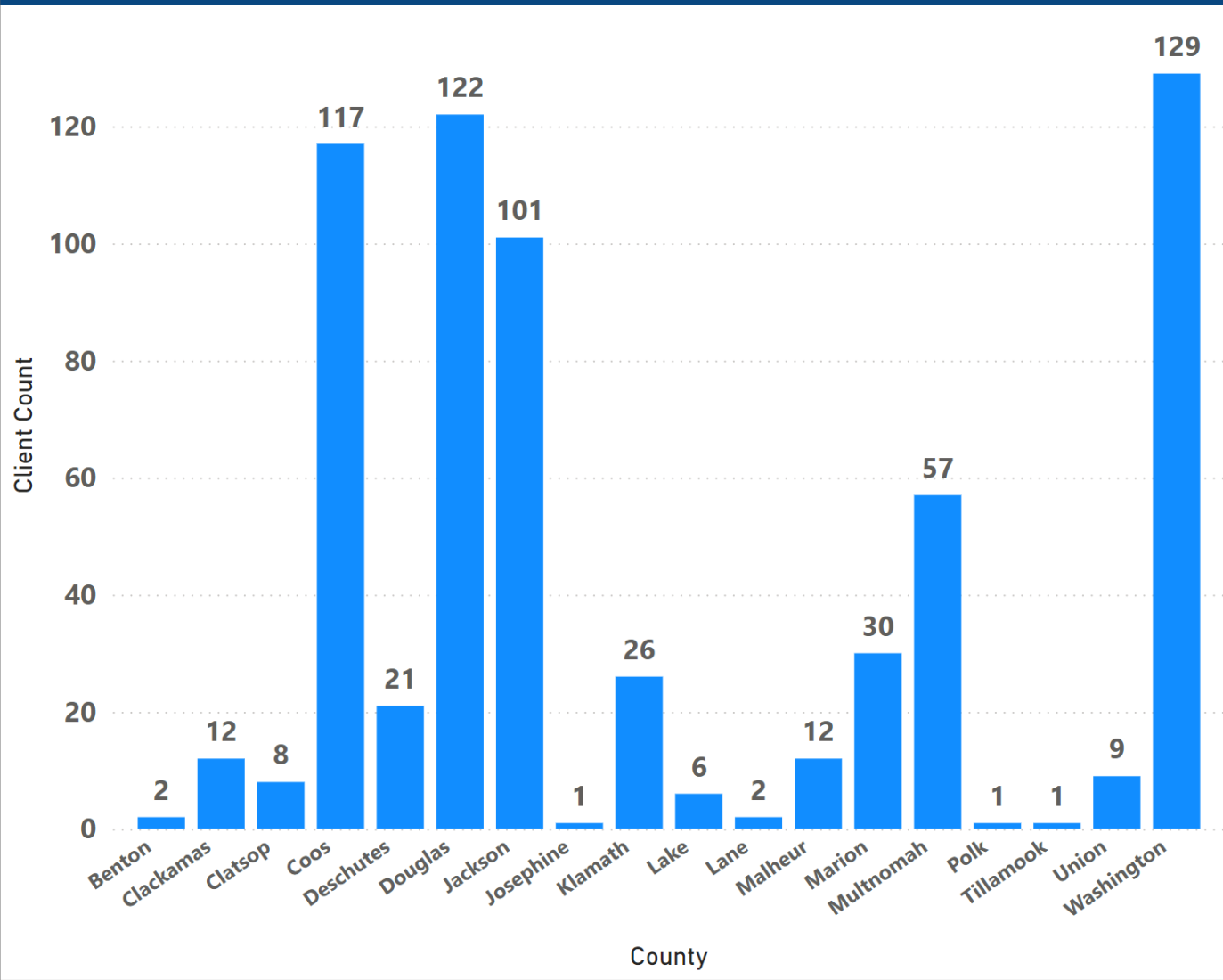
Unrepresented status update

Unrepresented Population Trends (7/1/23–12/3/24)



Betschart Assignments Coordinated by OPDC

Betschart Client Count by Case County

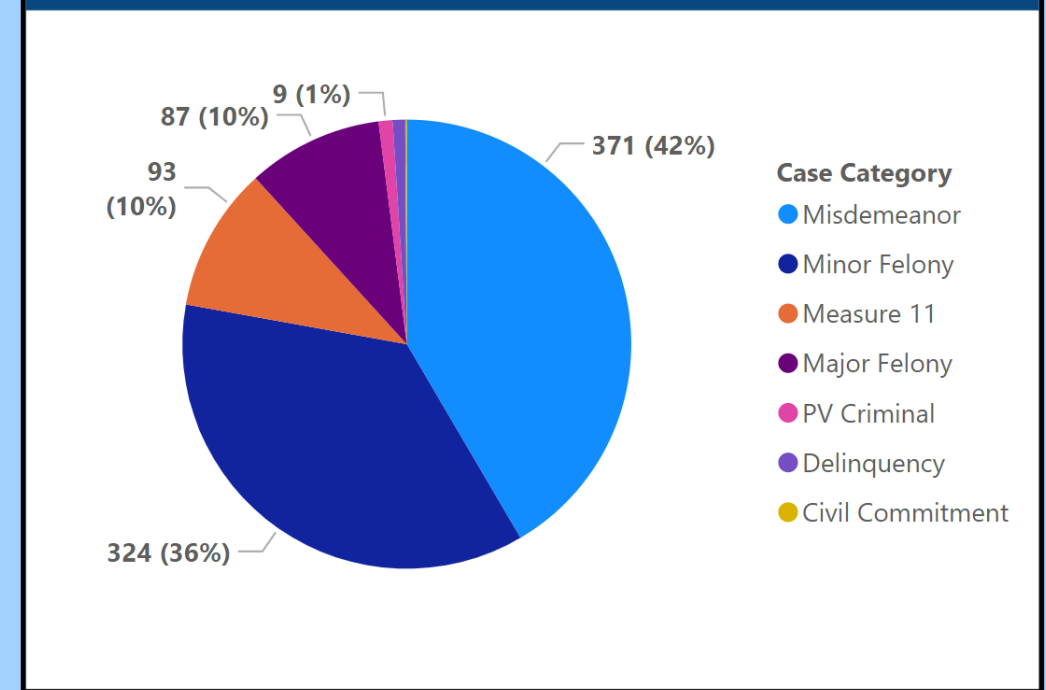


Betschart Assignments by Program

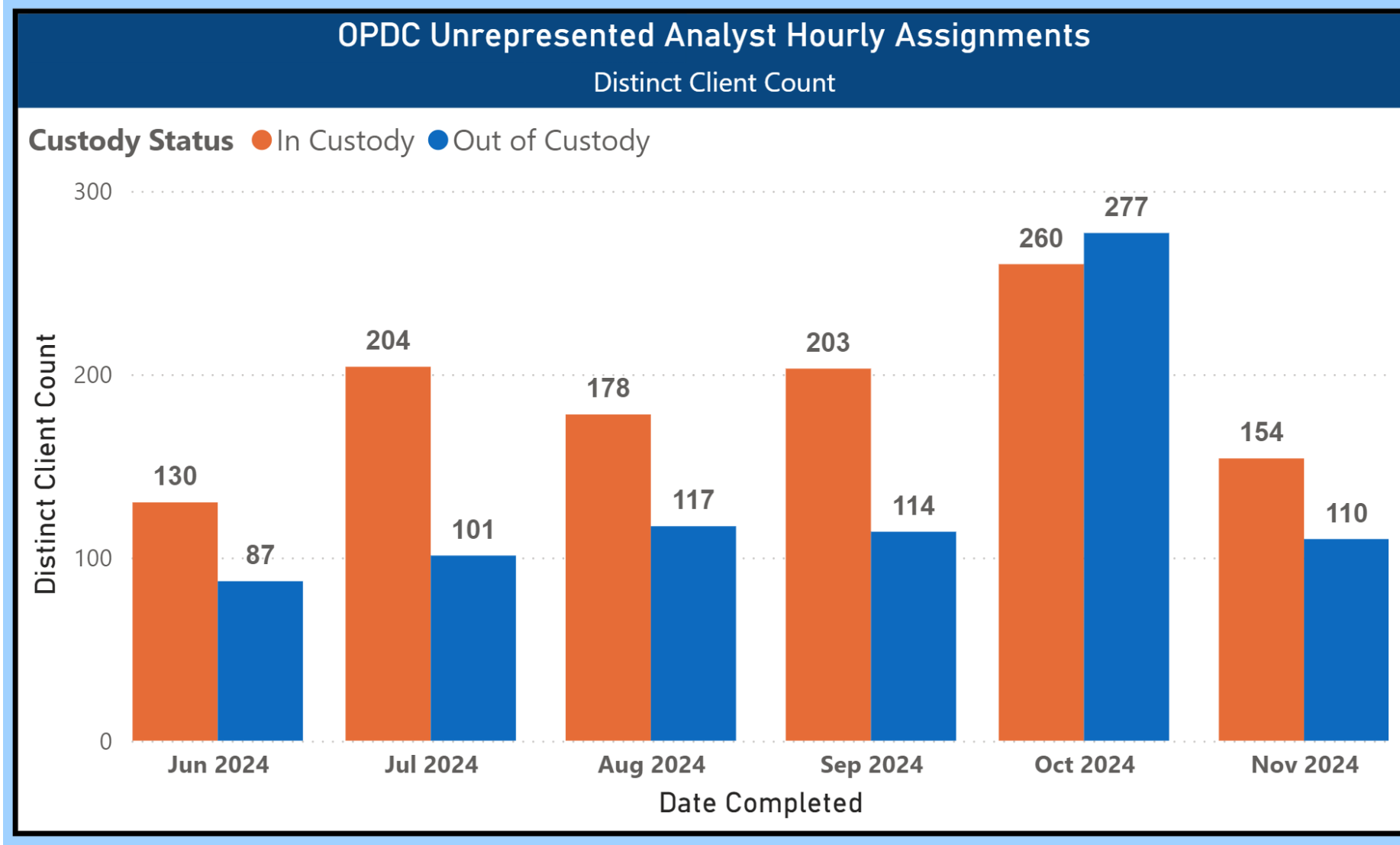
Assignment	Attorney Count	Client Count	Case Count
Contract	48	84	96
Hourly	113	496	691
Trial Division	14	76	105
Total	169	654	892

Betschart Assignments

Client Count



Comparison Between THIP (in Custody) & Regular Hourly (out of Custody) Assignments



Totals show monthly unrepresented client counts coordinated by OPDC staff (not a full accounting of hourly caseloads)

THIP attorneys

- Temporary Hourly Increase Program
- Launched in August 2022
- Since October 2023, limited to only in-custody
- 395 attorneys have taken cases
 - 258 have active hourly agreements
- 7,200+ cases
- 4,900+ clients

THIP Client Count (thru 12/3/24)	
Client Highest Charge	Client Count
Civil Commitment	80
Delinquency	106
Dependency/Termination	195
Jessica Law	65
Major Felony	438
Measure 11	556
Minor Felony	1,454
Misdemeanor	1,566
Murder	174
Other	2
PCR/Habeas	67
Probation Violations-Criminal	222
Total	4,925

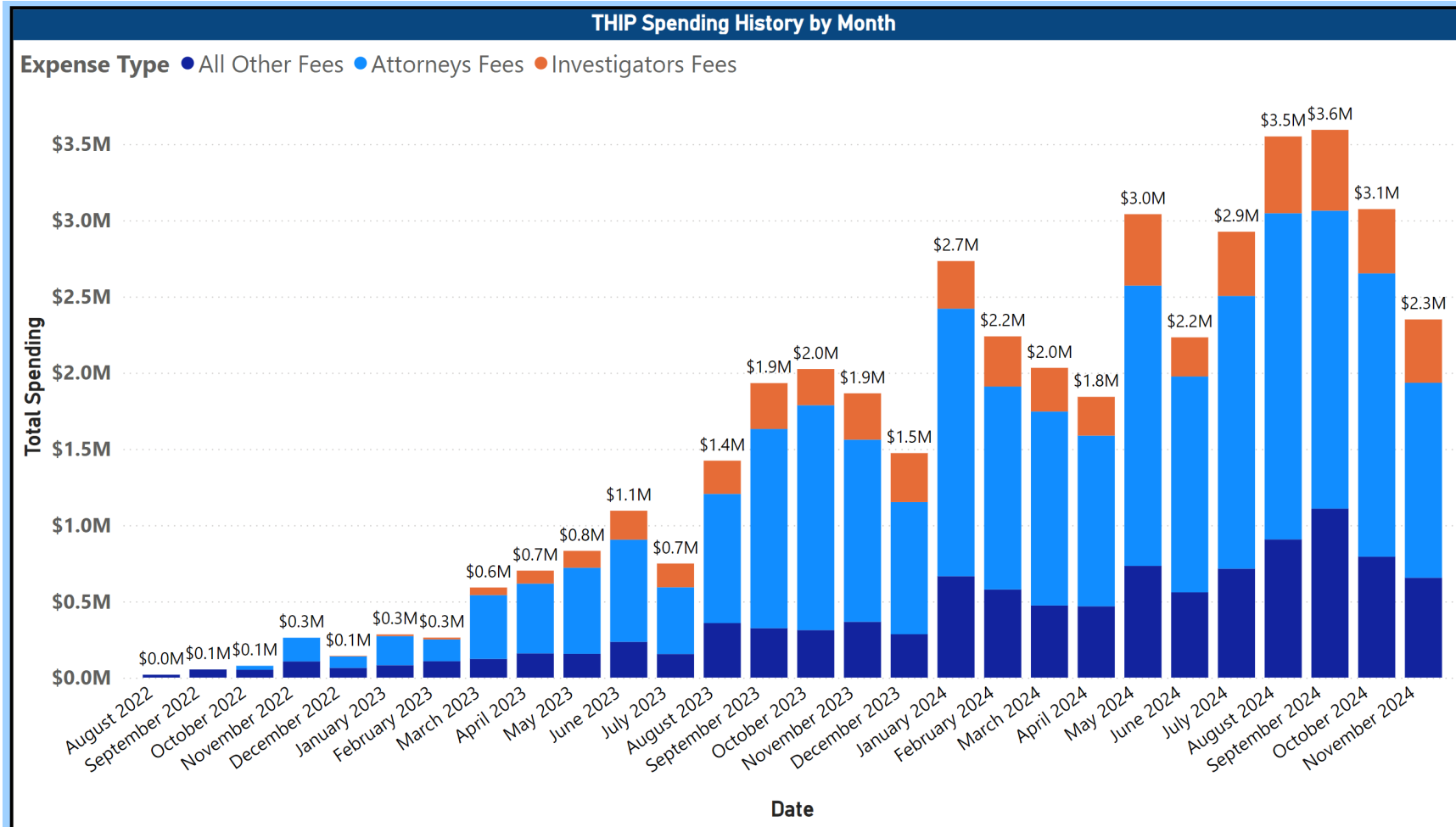
THIP Expenditures Since Inception

Attorneys: \$26.59 million

Other fees: \$11.63 million

Investigators: \$5.18 million

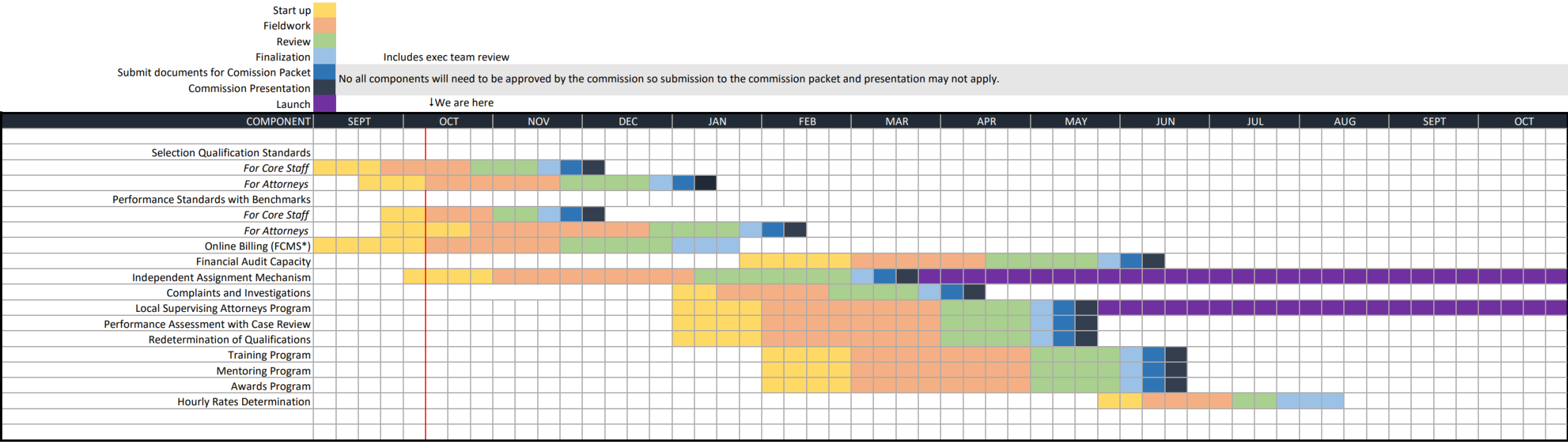
TOTAL: \$43.4 million



Source: OPDC Hourly Agreements Power BI Dashboard. 12/3/2024

Where we're going

Timeline for policies and programs



Definitions

- Start up 1) Define the define criteria that must be included in the final product 2) Gather existing documents
- Fieldwork 1) Conduct research into standards and best practices 2) conduct outreach to individuals as needed, 3) develop draft documents
- Review 1) Provide draft materials for review to the work group 2) provide draft materials for review to others as needed 3) update as appropriate
- Finalization 1) QA/QC final draft, 2) Submit to commission packet as relevant 3) Present for approval at commission meeting
- Launch 1) As relevant execute the activity (ex. Engaging the provider group, recruiting attorneys for the program etc.)

* This schedule reflects the development of the Stakeholder analysis guide, current state business process impact, and findings report. The full system implementation will take significantly longer, but the policies and procedures outlining units of time, tasks, etc. c:

Timeline established by SB 337 (2023)

July 1, 2025: Flat-fee contracting ends. Public defense provided by:

- OPDC
- nonprofits using workload contracts
- private bar attorneys using workload contracts
- attorneys paid an hourly rate

July 1, 2027: Private bar transitions to panel of qualified counsel

Jan. 1, 2031: 20% of public defenders must be OPDC employees

Jan. 1, 2035: 30% of public defenders must be OPDC employees

Hourly system

Attorneys will:

- Be evaluated using qualification standards to determine which types of cases they can take
- Be supervised by other attorneys
- Have access to mentors
- Contract with, and bill, OPDC using an hourly rate
- Use OPDC's future software system for billing

Policies

Create policies for:

- Online billing system
- Assignment of counsel by OPDC
- Complaints about public defense providers
- Performance assessments of public defense providers
- Reevaluation of attorneys' qualifications
- Financial audit of public defense providers

Plus: Update qualification and performance standards

Programs

Create programs for:

- Supervision of attorneys
- Mentoring
- Training
- Awards

Questions

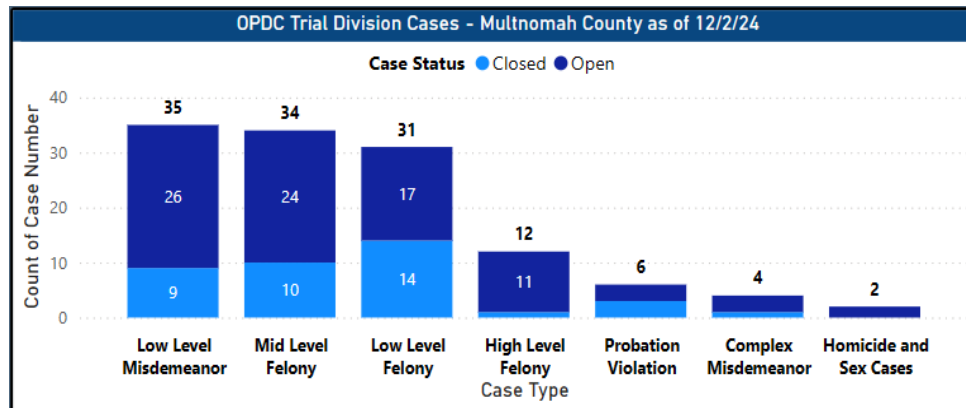
jessica.kampfe@opdc.state.or.us



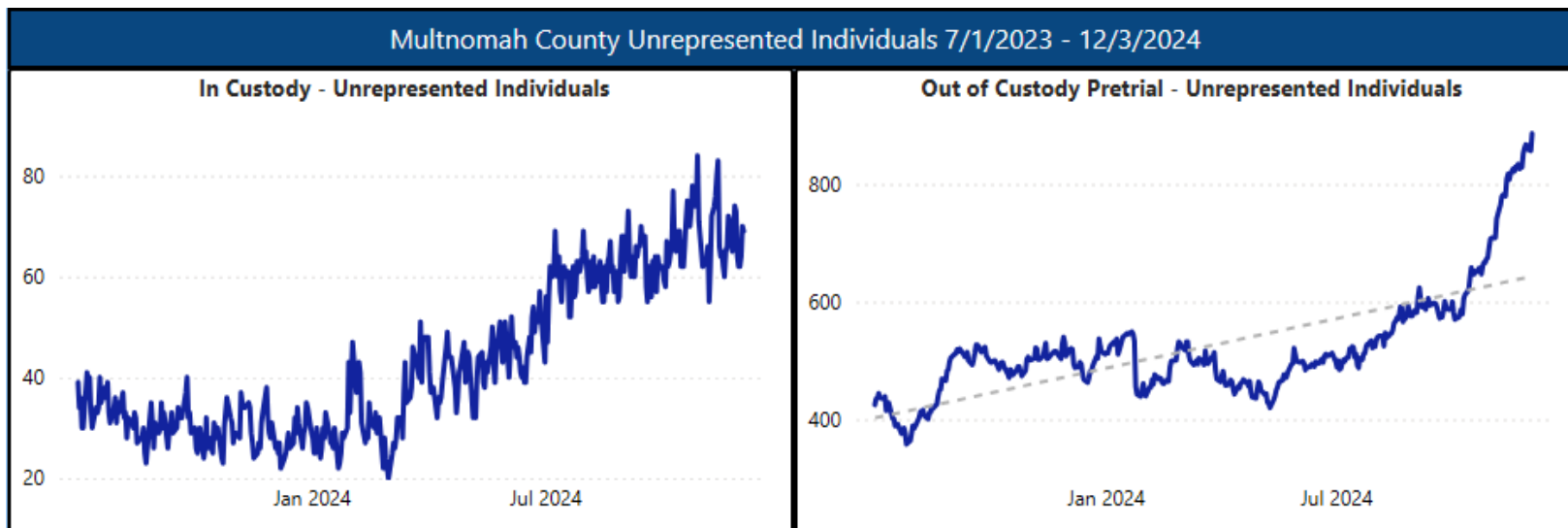
County-specific Data

Multnomah

Criminal MAC Utilization			
OPDC Contract Data (July 2023 - October 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
☐ Multnomah	92.11	101.75	90.5%
☐ Consortium	17.69	16.80	105.3%
☐ PD	73.92	84.33	87.7%
☐ Sole Proprietorship	0.49	0.62	80.1%
Total	92.11	101.75	90.5%



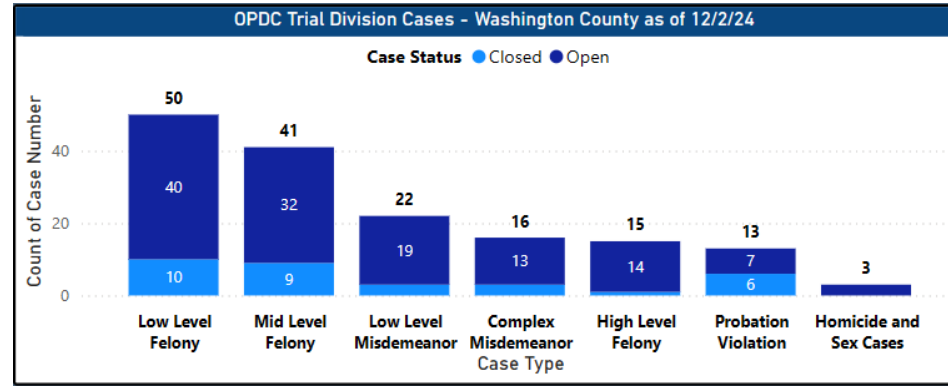
Contract Attorney Retention since July 1, 2023						
Criminal Contracts (as of 12/3/2024)						
HomeCounty	New Attys	Departed Attys	Net Attys	Departed (Now State Trial)	Departed (Now Hourly)	Departed (Left Public Defense)
☐ Multnomah	28	22	6		5	17
☐ Attorney 4	3	2	1			2
☐ Attorney 3	1	8	-7		3	5
☐ Attorney 2	6	8	-2		2	6
☐ Attorney 1	18	4	14			4
Total	28	22	6		5	17



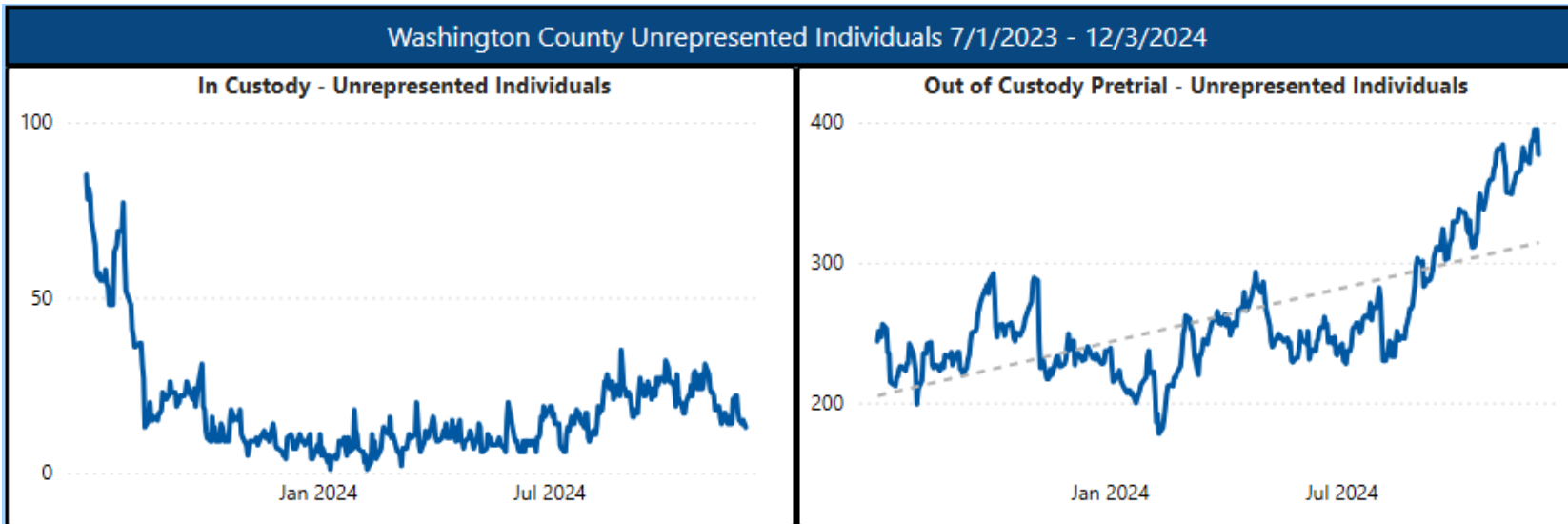
THIP Criminal Case Assignments		
July 1, 2023 - Dec. 3, 2024		
Case County	Client Count	Case Count
☐ Multnomah	429	728
Civil Commitment	1	1
Jessica Law	6	7
Major Felony	34	61
Measure 11	37	55
Minor Felony	180	362
Misdemeanor	132	195
Murder	34	41
PCR/Habeas	2	2
Probation Violations-Criminal	3	4
Total	429	728

Washington

Criminal MAC Utilization			
OPDC Contract Data (July 2023 - October 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
Washington	57.70	57.11	101.0%
Consortium	8.18	7.29	112.1%
Firm	18.58	19.09	97.3%
PD	30.02	29.51	101.7%
Sole Proprietorship	0.93	1.22	76.5%
Total	57.70	57.11	101.0%



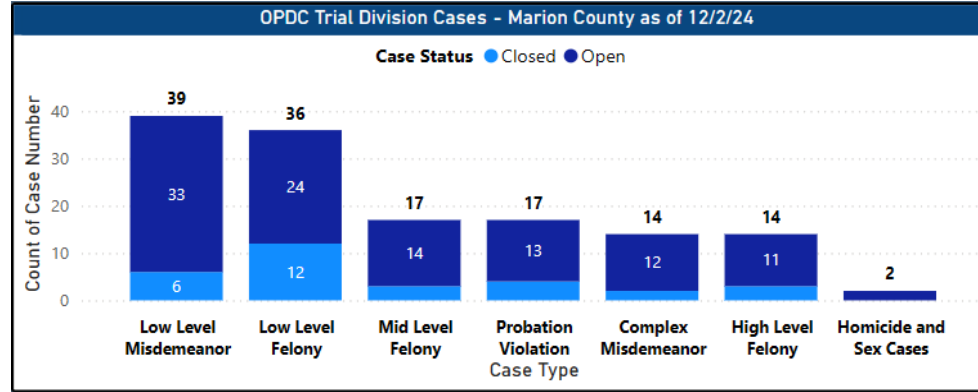
Contract Attorney Retention since July 1, 2023						
Criminal Contracts (as of 12/3/2024)						
HomeCounty	New Attys	Departed Attys	Net Attys	Departed (Now State Trial)	Departed (Now Hourly)	Departed (left Public Defense)
Washington	27	20	7	2	7	11
Attorney 4	1	1	0		1	0
Attorney 3	6	11	-5	2		9
Attorney 2	8	9	-1		6	3
Attorney 1	14	2	12			2
Total	27	20	7	2	7	11



THIP Criminal Case Assignments		
July 1, 2023 - Dec. 3, 2024		
Case County	Client Count	Case Count
Washington	367	577
Jessica Law	9	11
Major Felony	67	112
Measure 11	81	140
Minor Felony	116	172
Misdemeanor	67	111
Murder	12	13
PCR/Habeas	5	5
Probation Violations-Criminal	10	13
Total	367	577

Marion

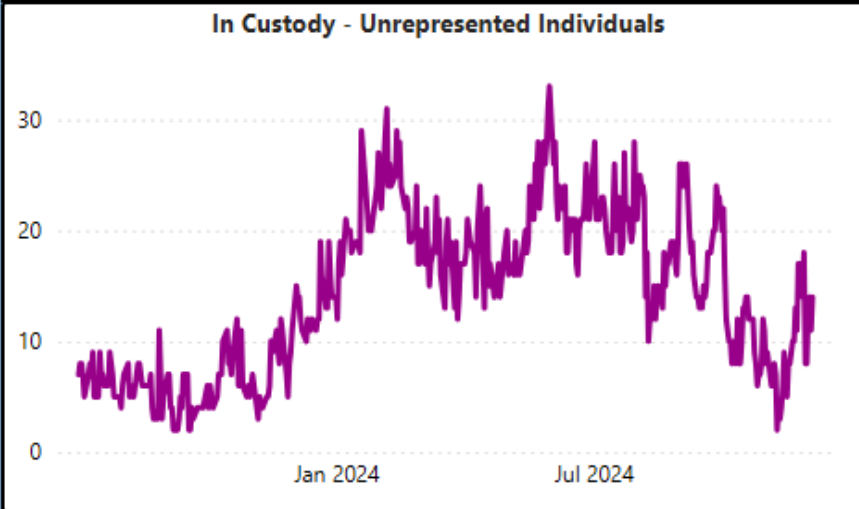
Criminal MAC Utilization			
OPDC Contract Data (July 2023 - October 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
⊖ Marion	34.11	48.70	70.0%
⊕ Consortium	20.21	25.58	79.0%
⊕ Firm	0.77	0.94	82.8%
⊕ PD	13.13	22.19	59.2%
Total	34.11	48.70	70.0%



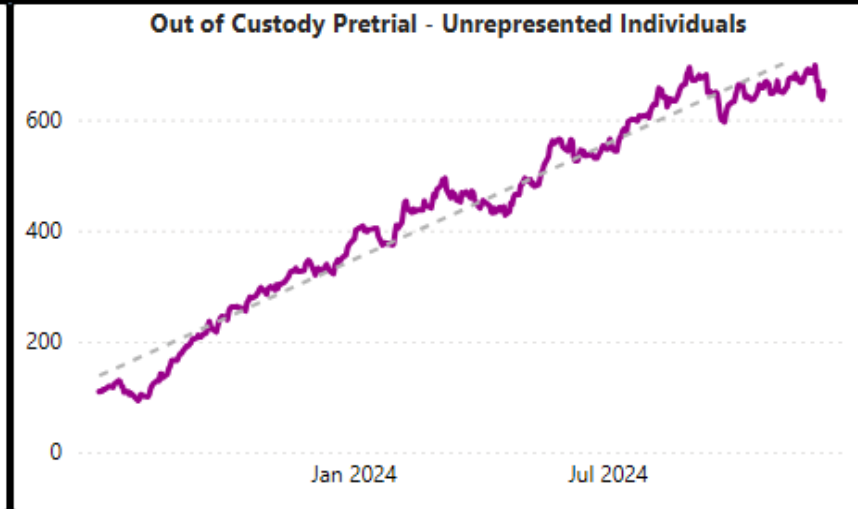
Contract Attorney Retention since July 1, 2023						
Criminal Contracts (as of 12/3/2024)						
HomeCounty	New Attys	Departed Attys	Net Attys	Departed (Now State Trial)	Departed (Now Hourly)	Departed (left Public Defense)
⊖ Marion	17	19	-2	4	5	10
⊕ Attorney 4	2	5	-3	1	1	3
⊕ Attorney 3	2	4	-2	2		2
⊕ Attorney 2	3	3	0	1		2
⊕ Attorney 1	10	7	3		4	3
Total	17	19	-2	4	5	10

Marion County Unrepresented Individuals 7/1/2023 - 12/3/2024

In Custody - Unrepresented Individuals



Out of Custody Pretrial - Unrepresented Individuals



THIP Criminal Case Assignments

July 1, 2023 - Dec. 3, 2024

Case County	Client Count	Case Count
⊖ Marion	266	375
Civil Commitment	1	1
Jessica Law	6	7
Major Felony	21	50
Measure 11	41	61
Minor Felony	72	100
Misdemeanor	45	58
Murder	12	13
PCR/Habeas	10	10
Probation Violations-Criminal	58	75
Total	266	375

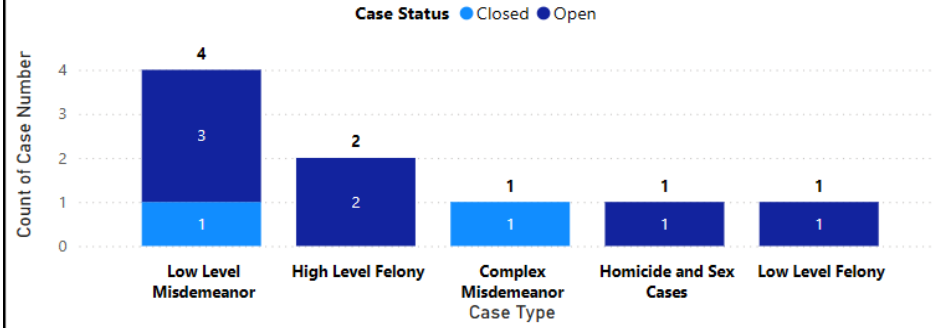
Coos

Criminal MAC Utilization

OPDC Contract Data (July 2023 - October 2024)

HomeCounty	Reported MAC	Prorated MAC	Utilization
Coos	7.94	7.52	105.5%
PD	7.94	7.52	105.5%
Total	7.94	7.52	105.5%

OPDC Trial Division Cases - Coos County as of 12/2/24



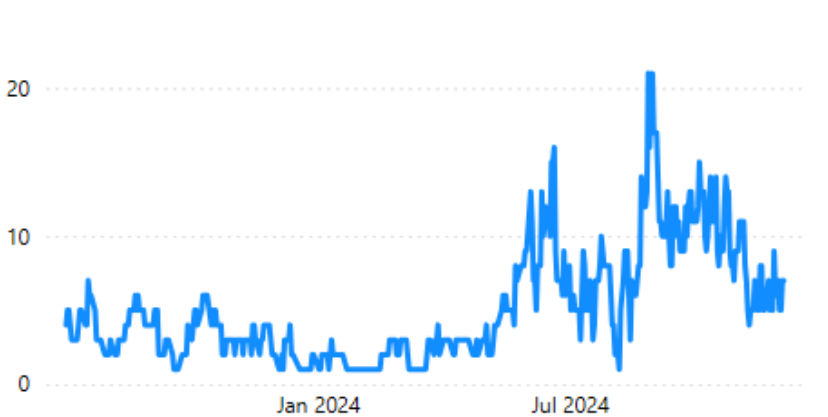
Contract Attorney Retention since July 1, 2023

Criminal Contracts (as of 12/3/2024)

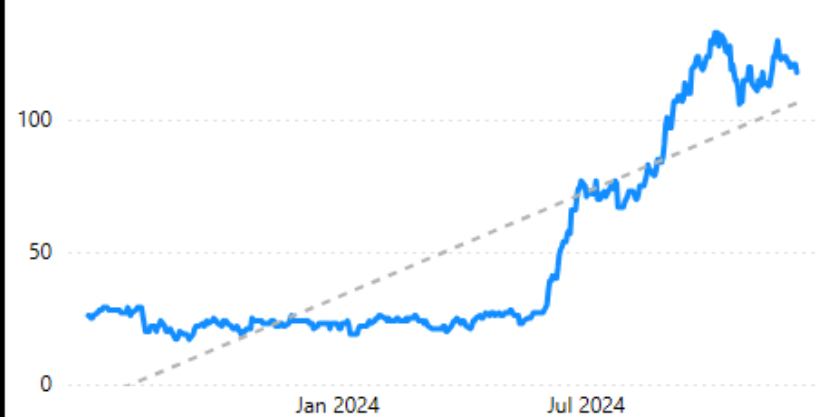
HomeCounty	New Attys	Departed Attys	Net Attys	Departed (Now State Trial)	Departed (Now Hourly)	Departed (left Public Defense)
Coos			4 -4		3	1
Attorney 4			1 -1		1	0
Attorney 3			1 -1			1
Attorney 2			2 -2		2	0
Total			4 -4		3	1

Coos County Unrepresented Individuals 7/1/2023 - 12/3/2024

In Custody - Unrepresented Individuals



Out of Custody Pretrial - Unrepresented Individuals



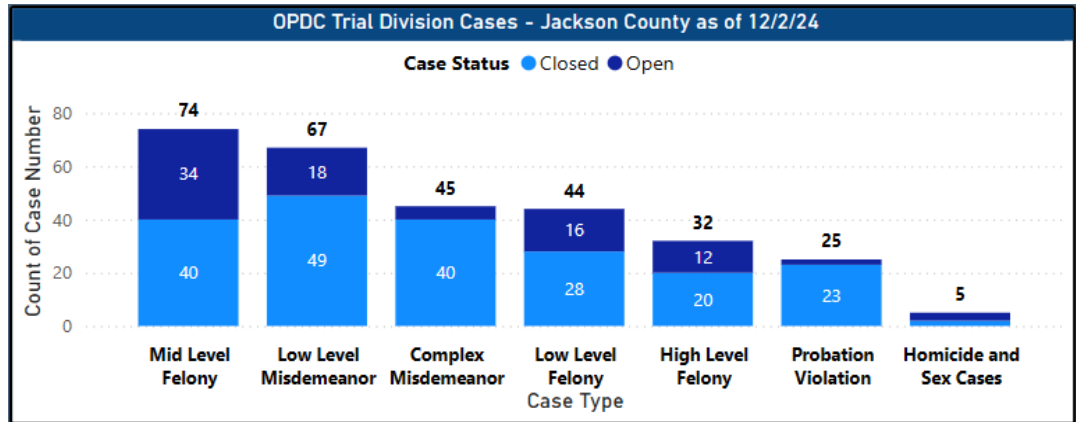
THIP Criminal Case Assignments

July 1, 2023 - Dec. 3, 2024

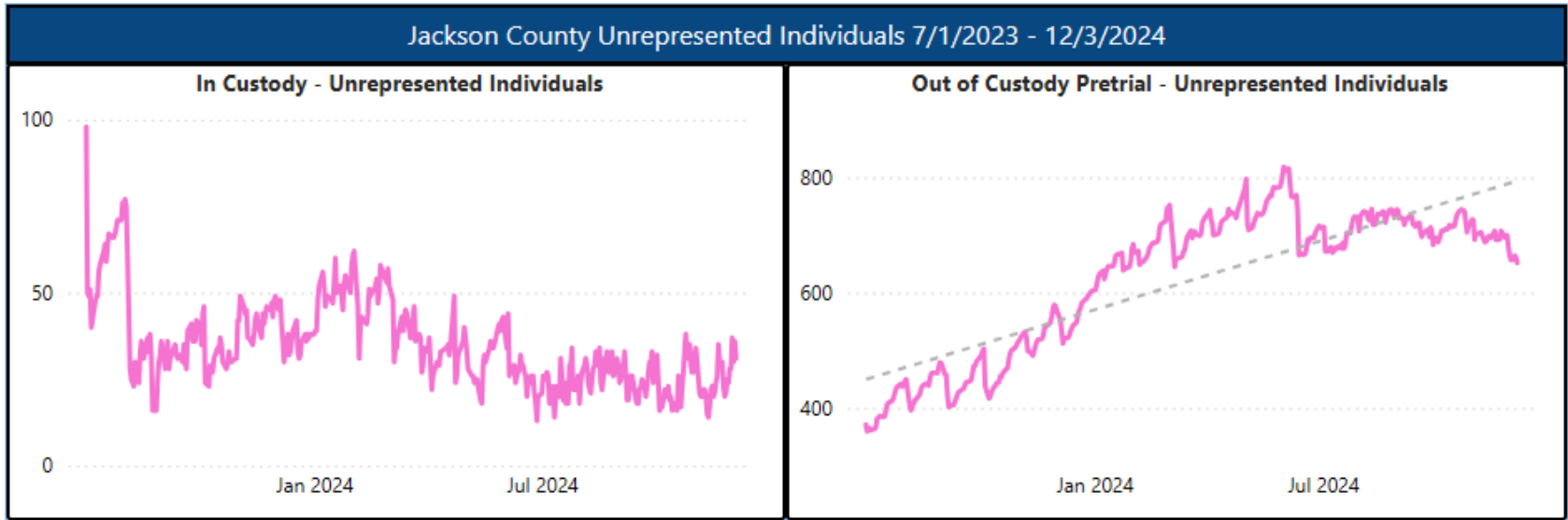
Case County	Client Count	Case Count
Coos	208	290
Civil Commitment	16	17
Jessica Law	5	6
Major Felony	17	22
Measure 11	18	19
Minor Felony	61	88
Misdemeanor	82	126
Murder	7	10
Probation Violations-Criminal	2	2
Total	208	290

Jackson

Criminal MAC Utilization			
OPDC Contract Data (July 2023 - October 2024)			
HomeCounty	Reported MAC	Prorated MAC	Utilization
▣ Jackson	27.07	29.31	92.3%
▣ Consortium	14.21	15.41	92.2%
▣ PD	12.65	13.64	92.7%
▣ Sole Proprietorship	0.21	0.26	80.6%
Total	27.07	29.31	92.3%



Contract Attorney Retention since July 1, 2023						
Criminal Contracts (as of 12/3/2024)						
HomeCounty	New Attys	Departed Attys	Net Attys	Departed (Now State Trial)	Departed (Now Hourly)	Departed (left Public Defense)
▣ Jackson	10	7	3	2		5
▣ Attorney 4		4	-4	2		2
▣ Attorney 3	5	2	3			2
▣ Attorney 2	2	1	1			1
▣ Attorney 1	3		3			
Total	10	7	3	2		5



THIP Criminal Case Assignments		
July 1, 2023 - Dec. 3, 2024		
Case County	Client Count	Case Count
▣ Jackson	146	215
Civil Commitment	12	12
Major Felony	13	24
Measure 11	10	23
Minor Felony	39	56
Misdemeanor	61	87
Murder	2	2
Other	1	1
Probation Violations-Criminal	8	10
Total	146	215