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Presiding Judge, Washington County Circuit Court

# Perspectives on the Unrepresented Persons Crisis

Oregon Judicial Department

Presented to the Joint Committee On Ways and Means Subcommittee On Public Safety  
April 20, 2023



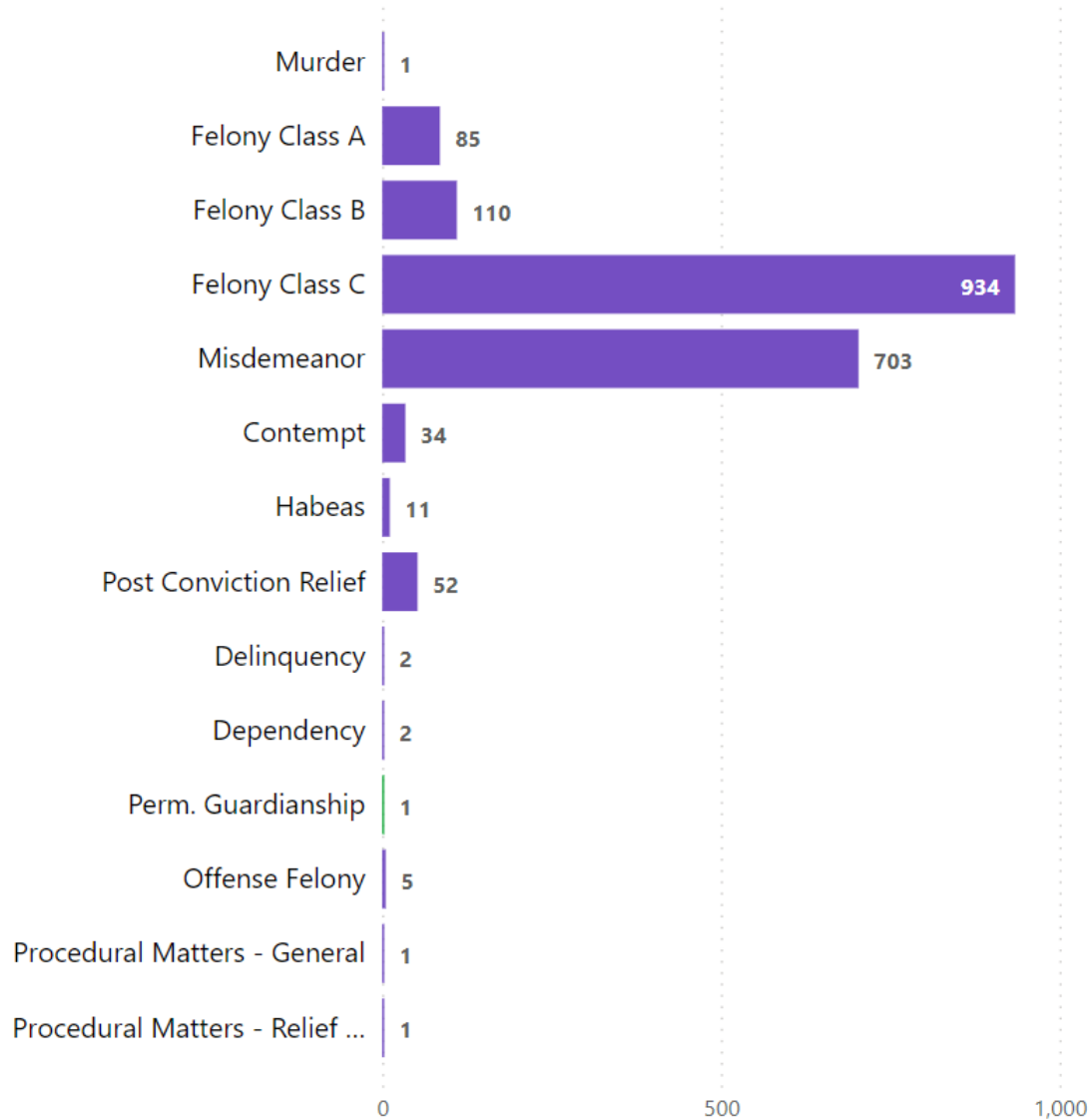
## SUBCOMMITTEE'S QUESTIONS FOR THE COURTS

1. What is the current state of the crisis from the courts' perspective?
2. What efforts have courts undertaken to help resolve the crisis? What has, has not, been successful?
3. What additional efforts could courts undertake to help resolve the crisis?
4. What other actions or collaborative efforts would courts recommend others undertake to resolve the crisis?

# THE CURRENT CRISIS IS EXTREME AND ONGOING

- People accused of a crime or at risk of being deprived of liberty have a right to counsel under the U.S. and Oregon Constitutions and Oregon statutes.
- Judges are required to appoint counsel to eligible persons. ORS 135.030
- The Public Defense Services Commission (PDSC) is required to maintain a public defense system consistent with the U.S. and Oregon Constitutions, Oregon statutes, and Oregon and national standards of justice. ORS 151.216
- Attorney unavailability began arising intermittently in the fall of 2021.

### Unrepresented Individuals as of 4/17/2023



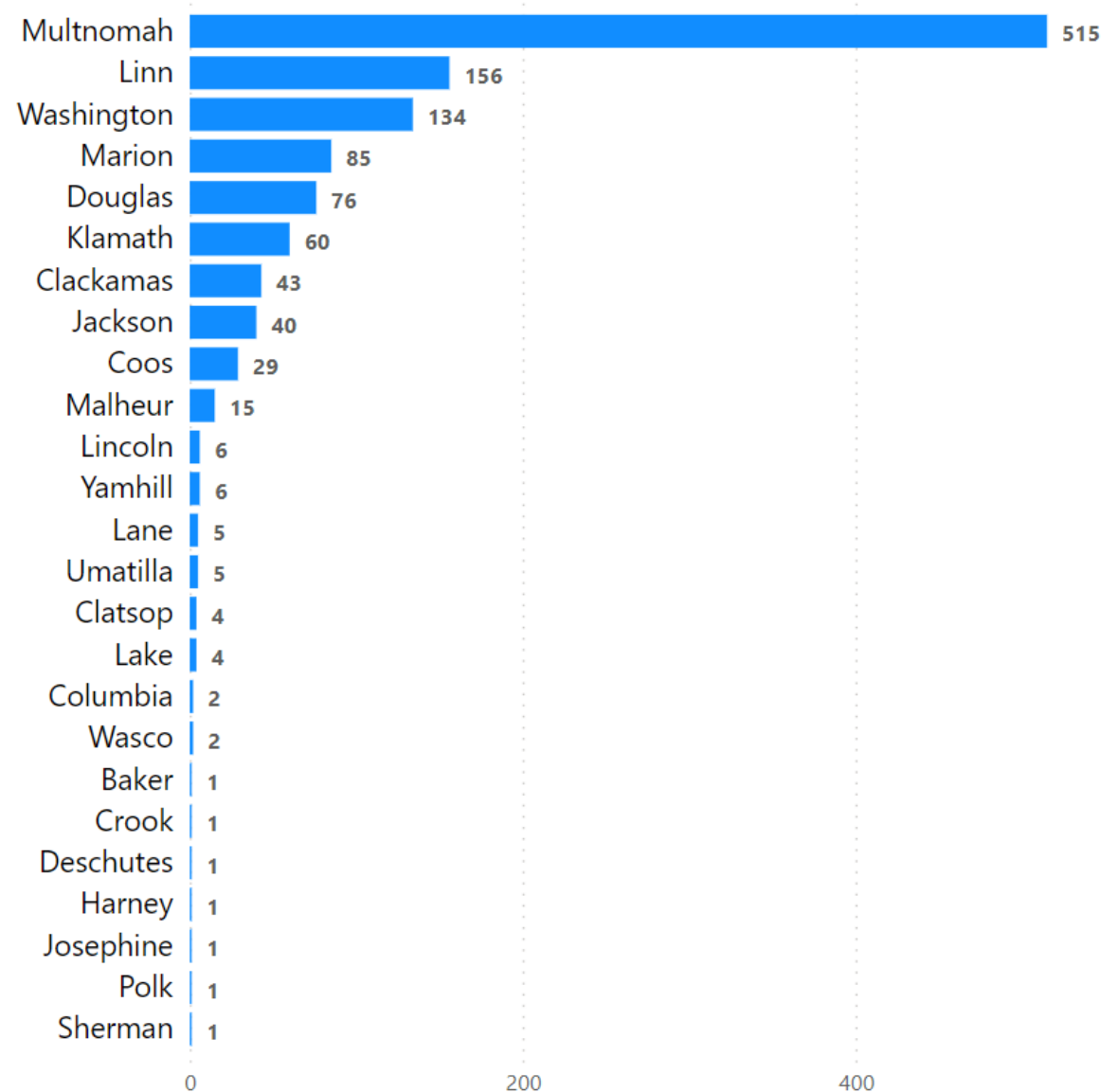
## UNREPRESENTED INDIVIDUALS

1,191 Statewide

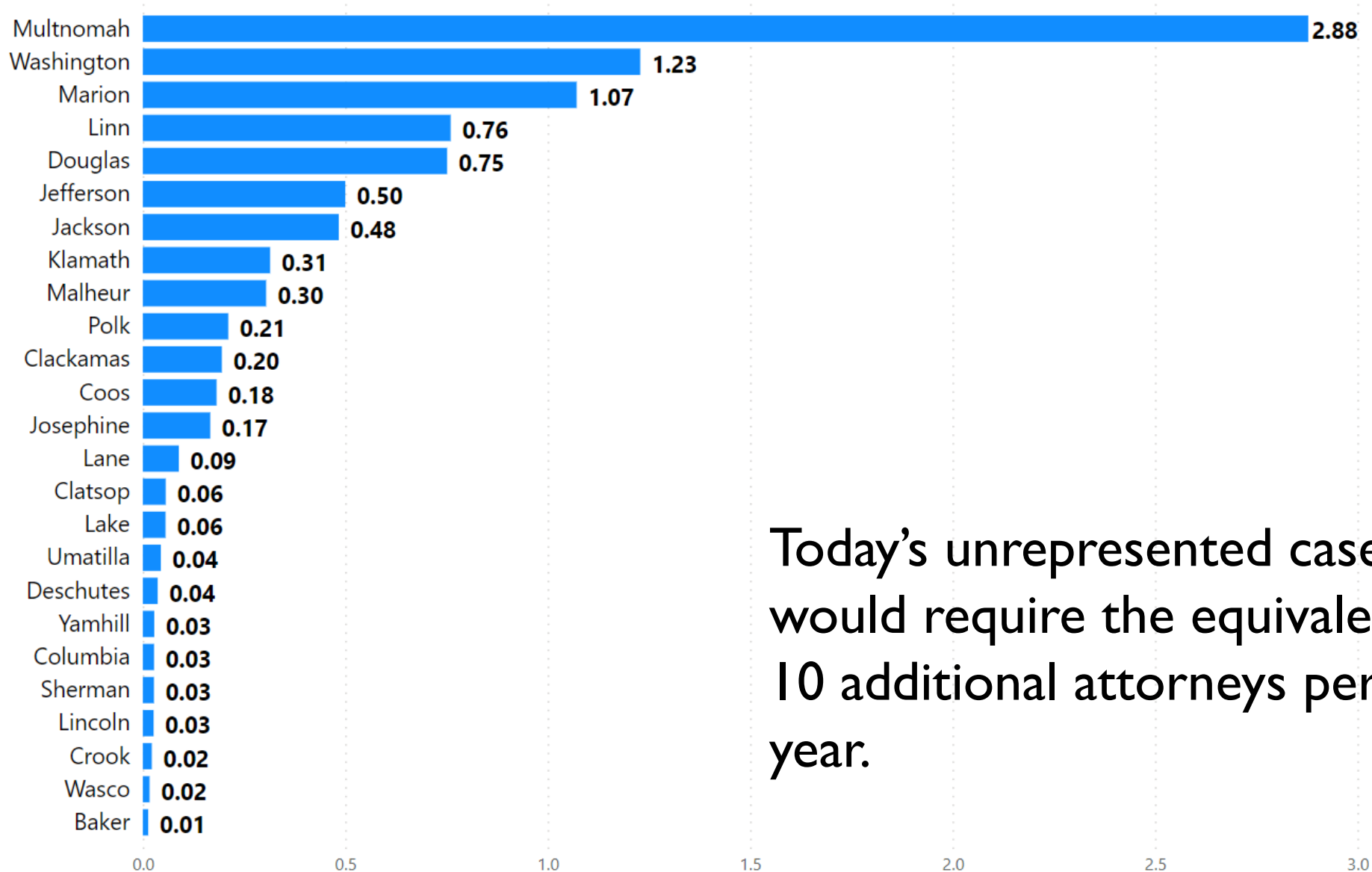
61% charged with felonies

People in 25 counties who have a right to counsel have no appointed attorney.

Unrepresented Individuals By Court as of 4/17/2023

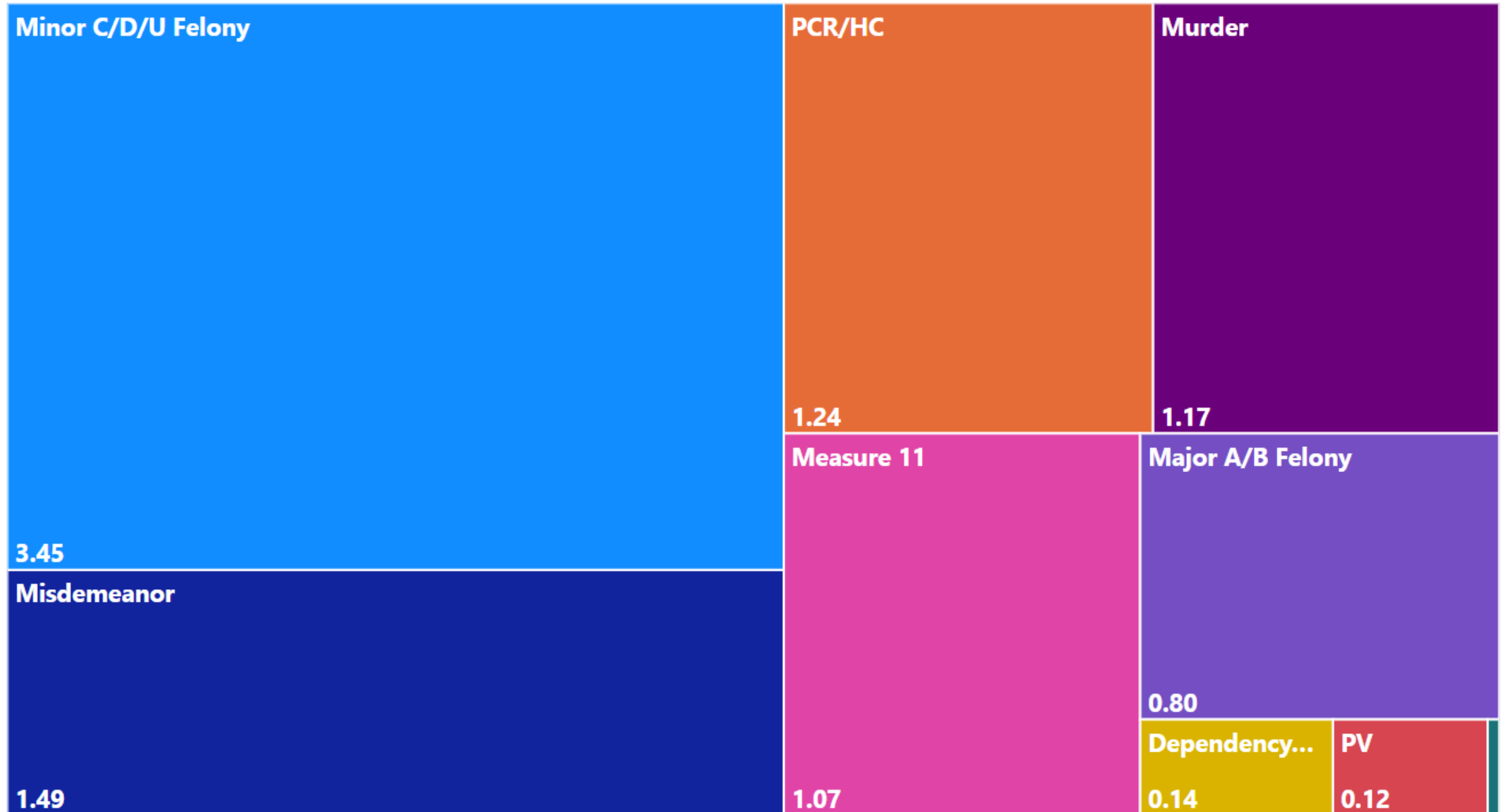


Unrepresented as of 4/17/2023 - MAC Needed by Court



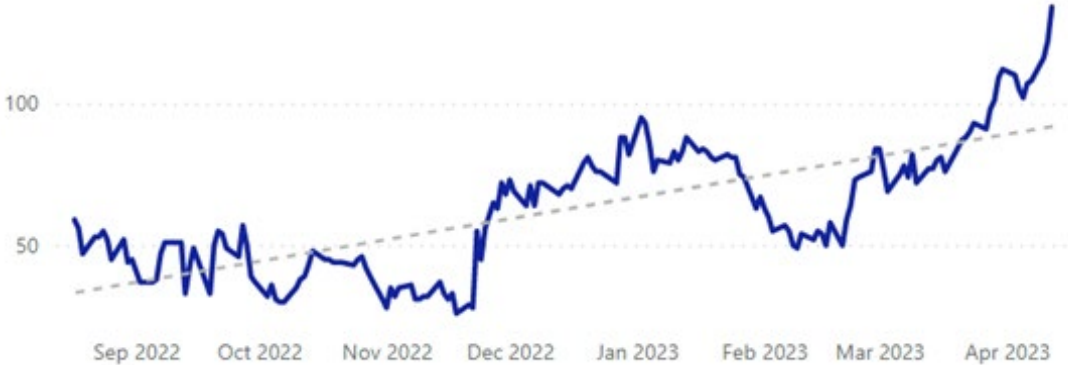
Today's unrepresented caseload would require the equivalent of 10 additional attorneys per year.

Unrepresented as of 4/17/2023 - MAC Needed by Case Type

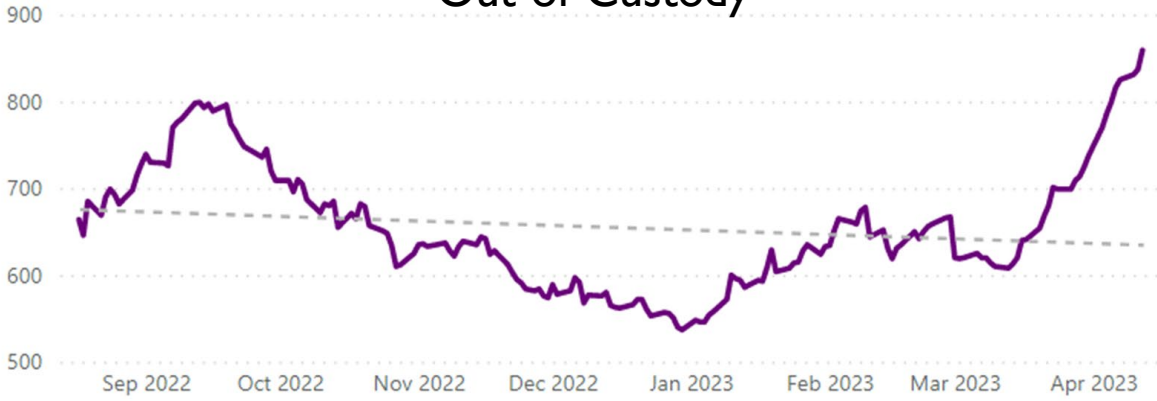


# Trends in Number of Unrepresented People as of 4/17/2023

## In-Custody



## Out-of-Custody



## PV Out-of-Custody



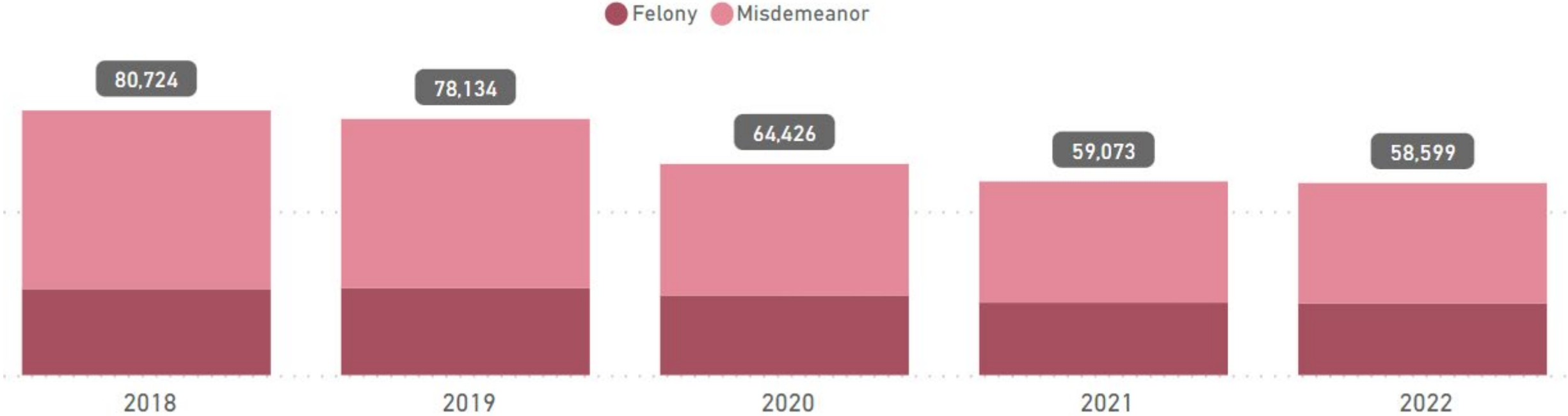
## Non-Criminal Case Types





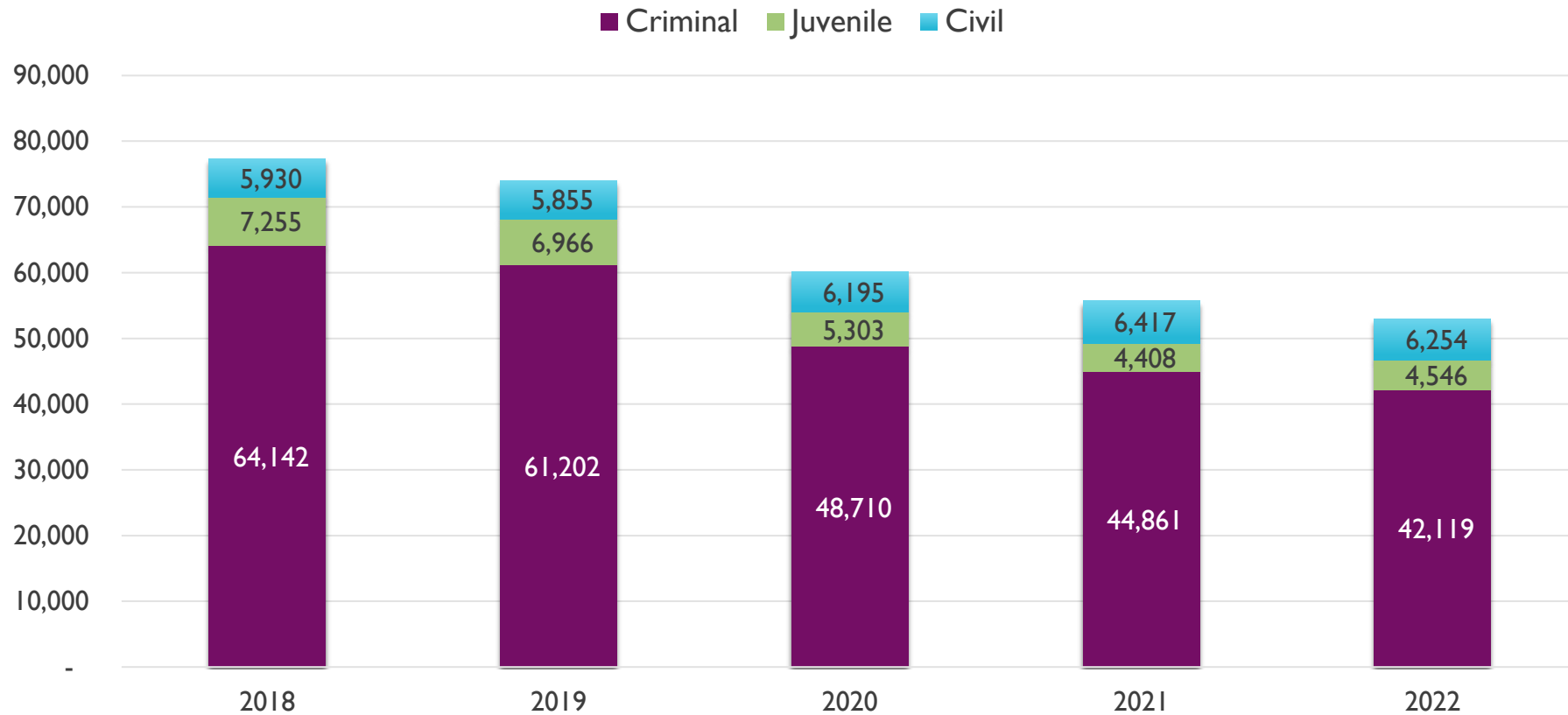
# STATEWIDE CRIMINAL CASE FILINGS HAVE DECLINED

Felony and Misdemeanor Cases Filed by Year



# CASE TYPES WITH APPOINTED COUNSEL

## Cases with Court Appointed Counsel



# STATE-LEVEL EFFORTS BY OJD

- **System Efforts**
  - **Data** - Developed reliable data dashboards and ongoing communication to assist OPDS and courts
  - **Resolve cases** - Committed senior judge resources to support trials and settlement efforts
  - **Coordination** - Initiated and facilitated discussions in several jurisdictions
  - **Collaboration** - Chief Justice subcommittee dedicated to case processing recommendations
- **Oregon State Bar & OJD**
  - Expanded admission opportunities for out-of-state attorneys and retired lawyers
  - Temporary Bar numbers to facilitate appointment of out of state attorneys
    - 21 attorneys currently assigned to 1,247 criminal and juvenile cases

## LOCAL COURT EFFORTS TO ADDRESS THE CRISIS

- Convened stakeholders
- Worked with parties to identify cases most ready for resolution
- Expanded opportunities to resolve cases
- Addressed time delays for discovery, in-custody transport
- Worked to secure services needed and to create alternative approaches to move cases forward

## MORE LOCAL COURT EFFORTS

- Outreach to (private) attorneys to accept case appointments
- Increased communication with OPDS, local defenders, and partners to promote coordination
- Focused on resolving cases, emphasizing oldest and in-custody cases
- Modified dockets, consolidated cases, reduced required appearances
- Continued expanded access through remote appearances and appearances through counsel

# POTENTIAL ADDITIONAL EFFORTS AND RECOMMENDATIONS

- Continue active collaboration with OPDS, local defenders, and system partners
- Explore opportunities to expand attorney recruitment/retention
- Examine cases in warrant status to determine whether appointments can be terminated to create additional capacity for newer cases
- Increase global resolution in cases where people have charges in multiple jurisdictions
- Develop additional data dashboards with accurate, available information to:
  - Support shared understanding, transparency, efficient management
  - Highlight opportunities for system improvement

## ADDITIONAL RECOMMENDATIONS

- Keep exploring case resolution strategies
- Promote transparency in caseload and workload expectations through open caseload standards
- Develop collaborative methodology for caseload forecasting
- Continue three-branch efforts resolve larger system issues





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Thank You

QUESTIONS?

