

# ANALYSIS

## Public Defense Commission Public Defense Attorney Capacity

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**Analyst:** John Borden

**Request:** Acknowledge receipt of a report on public defense attorney capacity.

**Analysis:** The budget report for HB 5031 (2025), the primary budget measure for the Public Defense Commission (PDC), included the following budget note:

The Department of Administrative Services is requested to unschedule \$22.1 million General Fund in select programs that may be scheduled only after the submission of a report by the PDC to the Joint Committee on Ways and Means for the 2026 legislative session, with a detailed comparison between budgeted and actual capacity for both contract providers and Trial Representation Division staff. The report shall include a specific plan of action to address those providers, or the Trial Representation Division, that are operating at less than 90% of budgeted capacity. The Commission is also to report on the preliminary results of the Enhanced Provider Capacity Pilot Program.

Understanding the difference between “budgeted” and “actual” public defense attorney capacity has been a long-standing question of the Legislature. State public defense of financially eligible defendants/persons is delivered through a state-funded and -administered contracting system with local providers that operate as independent contractors. These providers are a combination of nonprofit public defender offices, consortia of attorneys or law firms, private law firms, or individual attorneys for legal services. In 2023, the Legislature established regional pilot programs and authorized hiring state employees for trial-level defense. Non-contract hourly compensated attorneys, at both the trial and appellate level, are used for caseloads not otherwise covered by contract providers or state employees.

PDC’s report on budgeted and actual public defense attorney capacity is limited to contract providers, Parent Child Representation Program (PCRP) providers, and state-employed attorneys, and covers only criminal trial-level public defense for adults, juvenile dependency and delinquency cases, and PCRP for the current 2025-27 contract cycle, which was finalized on October 1, 2025. The report is based on two months of data (October and November).

Public defense attorney capacity is defined in terms of maximum attorney capacity (MAC), which is the maximum number of cases an attorney should not exceed over the course of one year and varies according to the types and seriousness of various cases and the percentage of time they devote to public defense. While state employees do not fall under the MAC model,

the model is used as a common measurement of their performance to compare to contract providers.

PDC currently contracts for 310.18 MAC from consortia, 227.26 MAC from nonprofit providers, 102.22 MAC from individuals/law firms, plus an estimated 17.00 MAC equivalent associated with state attorneys employed in the Trial Representation Division. For 2025-27 contracts, there are 657 MAC providing direct representation in provider contracts, including adult, juvenile, PCR, and statewide, as of October 2025. The MAC figures exclude related support, such as investigators, supervision, training, and other non-MAC sections of the contracts, which would equal 762.72 FTE undertaking public defense work, if included.

PDC's report generally presumes that attorneys, both contract provider and state employed, can operate at 90% of budgeted capacity without violating Oregon Rules of Professional Conduct, which require an attorney to decline or withdraw from cases that would materially limit their representation of other clients. Due to independent contractor law, once an attorney determines they have an ethical conflict, they cannot take on any more cases. Under the MAC model, some contractors may not be accepting new cases up to their contracted capacity due to ethical concerns, even though the provider is being paid for the full MAC. PDC is limited in the agency's ability to both evaluate and question an attorney's ethical decision-making or to direct an attorney to exceed their "ethical capacity." This complicates the determination of actual attorney capacity, as PDC has no way of pre-determining an attorney's ethical limit.

Other factors that may impact budgeted and actual public defense attorney capacity include the following three programs: 1) Enhanced Provider Capacity Pilot Program (aka "115% Program Participation"), which allows highly experienced attorney providers to operate at 115% of MAC capacity at an enhanced rate of pay. The program currently has 39 provider attorneys in six counties with one statewide provider attorney; 2) Reduced Caseload Program, which allows new attorneys to have a reduced caseload for one year. The program currently has 12 provider attorneys who operate in six counties; and 3) Supervised Practice Portfolio Examination Candidate Program, which is an Oregon State Bar alternative pathway program to licensure. PDC currently has 18 provider attorneys that operate in seven counties seeking licensure under the this program.

PDC's report represents the agency's first studied attempt to evaluate provider capacity and utilization not only by provider but also on a statewide basis. The report reflects a point-in-time snapshot. The following table shows that only 60% of PDC providers are operating at or above 90% capacity, with 40% operating below the 90% capacity target.

<b>Provider by MAC Utilization</b>	<b>Action</b>	<b>Total</b>	<b>% Total</b>
>90% at or above capacity target	No action	107	60%
<90% below capacity target	Monitoring	46	26%
<90% below capacity target	Intervening	24	14%
	<b>Total</b>	<b>177</b>	<b>100%</b>

Of those providers operating below capacity, 46 are categorized as being “monitored” by PDC, with 24 being subject to “intervention.” The “monitored” category is based on PDC’s determination in working with contract providers or state attorney staff that there is a reasonable explanation for the underperformance (e.g., vacant positions). The “intervention” category is where no clear explanation for underperformance, leading PDC to undertake more active contract management (e.g., more active case assignments or rebalancing MAC within a jurisdiction). PDC’s report states that if attempts to increase capacity are unsuccessful, a provider’s contract may be amended to a lower contracted MAC within a provider’s capacity. PDC’s report does note that capacity concerns are arising more frequently in rural jurisdictions and within specific case types (e.g., specialty courts, civil commitments, and post-conviction relief).

PDC’s report serves as a critical decision-making function for both the agency and the Legislature. Understanding provider capacity is essential to the pricing of caseload forecasts and agency contracting, and it also informs needed legislative investments in the public defense system. The report has already yielded results, as PDC utilized capacity data to inform 2025-27 provider contracts. Furthermore, the report does provide evidence that state-employed attorneys operating under the Trial Representation Division are generally performing at levels consistent with contract providers.

This report also should be considered in the broader context of the recent progress the agency has made in seeking to clearly define key public defense variables, which include case forecasting, case costing, contract modifications, and now capacity utilization.

Although 40% of providers are operating below 90% capacity the remedial efforts PDC is undertaking to increase capacity are sufficient to direct the scheduling of \$22.1 million General Fund.

**Recommendation:** The Legislative Fiscal Office recommends acknowledging receipt of the report, with instruction that the Department of Administrative services is to schedule \$22.1 million General Fund for the Public Defense Commission and direct the Public Defense Commission to provide an updated report comparing budgeted and actual public defense capacity to the Joint Committee on Ways and Means during the 2027 legislative session.

# Public Defense Commission Bennett

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**Request:** Report on budgeted and actual capacity of both contract providers and Trial Representation Division staff and the preliminary results of the Enhanced Provider Capacity Pilot Program as directed by a budget note associated with House Bill 5031 (2025).

**Recommendation:** Acknowledge receipt of the report.

**Discussion:** The Oregon Public Defense Commission (OPDC) submitted a report in compliance with the following budget note included in the budget report for House Bill 5031 (2025):

**Budget Note:**

*The Department of Administrative Services is requested to unschedule \$22.1 million General Fund in select programs that may be scheduled only after the submission of a report by the Oregon Public Defense Commission to the Joint Committee on Ways and Means for the 2026 legislative session, with a detailed comparison between budgeted and actual capacity for both contract providers and Trial Representation Division staff. The report shall include a specific plan of action to address those providers, or the Trial Representation Division, that are operating at less than 90% of budgeted capacity. The Commission is also to report on the preliminary results of the Enhanced Provider Capacity Pilot Program.*

**Comparison of provider budgeted and actual capacity:** OPDC's provider contracts for the 2025-27 biennium were executed beginning October 1, 2025, and this report is based on data from the first two months of these contracts. In order to assess budgeted and actual capacity OPDC compared contracted provider Maximum Attorney Caseload (MAC) information to actual performance, except for Parent Child Representation Program (PCRP) providers, who are contracted using an "open workload model" of 80 open cases per FTE. Overall, provider types other than Juvenile were over 90 percent capacity. While there is variation in capacity utilization by individual provider, it is important to note that these results are only based on the first two months of an 18-month contract cycle.

**Plan of action to address providers under 90 percent of budgeted capacity:** To analyze these results OPDC grouped providers into three tiers based on MAC utilization:

- The first tier, including providers at or above 90 percent utilization, makes up 107 of the agency's 177 providers. OPDC will continue to monitor the performance of these providers.
- The second tier is made up of providers under 90 percent utilization who have reasonable explanations for their performance, such as having specialty or statewide contracts, providers impacted by the biennial MAC reset, contracts too small for reliable trend analysis, intentional capacity planning by OPDC, or those in non-crisis counties who are covering all available cases. OPDC will continue to monitor these providers and will intervene or adjust contract capacity if necessary. This tier includes 46 OPDC providers.

- The third tier is made of providers below 90 percent MAC utilization who are out of contract compliance due to the lack of reasonable, documented explanations for their performance. OPDC has developed and is implementing individualized plans to increase MAC utilization for these providers. These plans include support addressing operational barriers, filling vacancies or the use of caseload assignment plans focused on increasing provider case pick-ups. This tier includes 24 OPDC providers.

OPDC will continue to monitor provider capacity throughout the biennium and will intervene as necessary to ensure that provider contract provisions are followed.

**Preliminary Results of the Enhanced Provider Capacity Pilot Program:** Additionally, House Bill 5031 (2025) provided OPDC with \$2.2 million General Fund to implement the Enhanced Provider Capacity Pilot Program. This program allows for increased compensation for sufficiently experienced attorneys, with sufficient ethical capacity to take cases exceeding the current MAC limits, up to 115 percent, on a voluntary basis. The program has a total of 39 participants as of the end of November 2025. These participants are forecasted to cover the MAC equivalent of 4.8 additional full-time caseloads throughout the 2025-27 contract period.

Upon the legislature's acknowledgement of receipt of this report, the DAS Chief Financial Office (CFO) intends to reschedule the \$22.1 million General Funds that the legislature requested be unscheduled per the budget note.



# Oregon

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January 23, 2026

The Honorable Senator Kate Lieber, Co-Chair  
The Honorable Representative Tawna Sanchez, Co-Chair  
Joint Committee on Ways and Means  
900 Court Street NE  
H-178 State Capitol  
Salem, OR 97301

Dear Co-Chairs Lieber and Sanchez:

### Nature of the Request

This request is related to a report submitted by the Oregon Public Defense Commission (OPDC) as required by a budget note in House Bill 5031 (2025), which reads:

The Department of Administrative Services is requested to unschedule \$22.1 million General Fund in select programs that may be scheduled only after the submission of a report by the Oregon Public Defense Commission to the Joint Committee on Ways and Means for the 2026 legislative session, with a detailed comparison between budgeted and actual capacity for both contract providers and Trial Representation Division staff. The report shall include a specific plan of action to address those providers, or the Trial Representation Division, that are operating at less than 90% of budgeted capacity. The Commission is also to report on the preliminary results of the Enhanced Provider Capacity Pilot Program.

The agency is requesting acknowledgment of the report, as well as the rescheduling of the \$22.1 million General Fund.

### Agency Action

OPDC executed contracts for the 2025-27 biennium beginning on October 1, 2025. Contractors provide OPDC with caseload data for the previous month on the 15th of every month. Therefore, as of the release of this report, OPDC possessed caseload data for public defense contractors for October and November 2025. **Table 1** provides the MAC utilization for all providers by type. The full list of MAC utilization by contract type and county is provided in the report's appendix. Details of specific Adult Criminal and Juvenile provider contracts can be found via OPDC's data dashboards [here](#), and the Trial Division can be found [here](#).

**Table 2. Public Defense MAC by Provider Type**

Provider Type	Prorated MAC	Reported MAC	MAC Utilization
Adult Criminal	74.606	71.389	95.69%
Juvenile (non-PCRCP)	15.517	12.555	80.91%
OPDC Trial Division†	7.558	6.934	91.75%

	Expected Caseload	Reported Caseload	Utilization Percentage
PCRCP Providers‡	6,306.4	6,109.3	96.87%

- † OPDC Trial Division MAC is measured from July 1, 2025 to December 31, 2025.
- ‡ PCRCP does not operate under a MAC model, but rather an open workload model of 80 open cases for a 1.0 FTE attorney. The percentage shown is the percent of workload used, with the expected number of open cases per month based on FTE being the denominator.

Based on MAC utilization, OPDC has sorted all providers into one of three tiers. Tier 1 includes providers that are above 90 percent, Tier 2 includes providers below 90 percent that are subject to agency monitoring, and Tier 3

includes providers that are below 90 percent and OPDC is actively implementing a plan of action to increase MAC utilization. **Table 2** provides the tiered breakdown for the four provider types.

**Table 2. Providers by MAC Utilization Tier**

<b>Tier</b>	<b>Adult Criminal</b>	<b>Juvenile</b>	<b>PCRPF†</b>	<b>OTD Office‡</b>	<b>Total</b>
1 >90%	60	27	18	2	107
2 <90% Monitor	29	15	2	0	46
3 <90% Intervention	13	7	3	1	24
<b>Total</b>	<b>102</b>	<b>49</b>	<b>23</b>	<b>3</b>	<b>177</b>

† PCRPF does not operate under a MAC model, but rather an open workload model of 80 open cases for a 1.0 FTE attorney. The percentage shown is the percent of workload used, with the expected number of open cases per month based on FTE being the denominator.

‡ OPDC Trial Division MAC is measured from July 1, 2025 to December 31, 2025.

After this initial review, OPDC identified 24 contractors requiring intervention. Plans were created to monitor and fill vacancies, address issues related to attorneys on leave, and, in some cases, shift capacity to another county that needed the available MAC. In addition, case pick up plans were created for other providers, seeking to increase case pickup rates or redistribute cases more equitably among providers in a jurisdiction, with the aim of bringing all providers with a jurisdiction to 90 percent MAC utilization. Some of these interventions have already been implemented, while others are on a 6-month timeline; if MAC utilization is not improved within that time frame, OPDC will amend contracts to better reflect the actual MAC being provided.

The report also provides an update to the Enhanced Caseload Program, a voluntary program that allows attorneys to take up to 115 percent of MAC. With 39 participants, OPDC is contracting for an additional 4.8 MAC across the entire contract period. In the first two months of reporting, these participants are at 106.5 percent utilization, which is above even the enhanced contracted amounts.

**Action Requested**

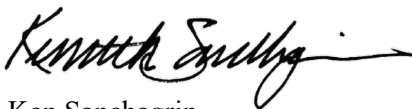
OPDC requests that the Committee acknowledge receipt of the Capacity Report, and requests the Department of Administrative Services to schedule the \$22.1 million General Fund previously unscheduled funds as follows:

Adult Trial Division:	\$16,500,000 General Fund
Juvenile Division:	\$2,300,000 General Fund
Trial Representation Division	\$1,000,000 General Fund
Parent Child Representation Program	\$2,300,000 General Fund

**Legislation Affected**

No legislation is affected.

Sincerely,



Ken Sanchagrin  
Interim Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer  
John Borden, Principal Legislative Analyst, LFO  
Kate Nass, Chief Financial Officer  
Jonathan Bennett, Budget and Policy Analyst

# Oregon Public Defense Commission Capacity Report

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January 23, 2026

## **Nature of the Report**

The Department of Administrative Services is requested to unschedule \$22.1 million General Fund in select programs that may be scheduled only after the submission of a report by the Public Defense Commission to the Joint Committee on Ways and Means for the 2026 legislative session, with a detailed comparison between budgeted and actual capacity for both contract providers and Trial Representation Division staff. The report shall include a specific plan of action to address those providers, or the Trial Representation Division, that are operating at less than 90% of budgeted capacity. The Commission is also to report on the preliminary results of the Enhanced Provider Capacity Pilot Program.

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## Definitions

**MAC:** Maximum Attorney Caseload – as defined in contract. MAC refers to attorneys providing direct representation to clients.

**FTE:** Full Time Equivalent – includes attorney time not directly tied to client representation, such as supervision, along with non-attorney contracted services like investigators and case managers.

**Pro rated MAC:** Contracted attorney MAC by month and contract cycle that accounts for adjustments to an attorney's MAC (increase or decrease) as reflected in the Contracts Database. Pro rated MAC is calculated based on the MAC 'start' dates, 'departure' dates, and 'effective' dates of amendments from the Contracts database. Prorated MAC is calculated on the number of days an attorney was on a specific MAC value as a portion of the contract cycle. It is a daily count, not a monthly count. For context for this report, a 1.0 MAC, or full time public defender, has a prorated MAC of .167 for October and November combined.

**MAC Reported:** The weight of cases reported by an attorney or contractor and case weight adjustments made based on language in the contract (such as withdraws, out of country, and subsequent attorney).

**Capacity:** MAC reported less pro rated MAC.

**Appointed Case:** A case reported for the first time by an attorney with an appointment date falling within the current contract cycle of October 1, 2025 - June 30, 2027.

**Open Case:** A case with an appointment date that does not match the report month and/or a case where a disposition event has not occurred.

**Closed case criminal contracts:** A case with a disposition date and a disposition code other than CONT.

**Closed case juvenile contracts:** A case with a disposition date and any of the following disposition codes listed: DSM, EMAN, JUNF, PRT, TERM, or WAIV.

**Adult Criminal Contracts:** Provider contracts that provide representation to adults in criminal cases, also include specialty courts, PCR, appeals, civil commitments, and others. Abbreviated to AC.

**Juvenile Contracts:** Provider contract that provides representation to children in delinquency cases, and adults and children in dependency or termination of parental rights cases, also includes juvenile appeals and other juvenile case types. Abbreviated to JC.

**Providers:** For this report, the term providers refers to contractors and the Oregon Trial Division's three regions. It does not mean individual public defenders or hourly attorneys.

**Contractors:** Contractors refer to Adult Criminal, Juvenile, and PCRCP providers who are currently contracted to provide public defense services in Oregon. It does not include the Oregon Trial Division or hourly attorneys.

## Background

In House Bill 5031 (2025), which serves as the Oregon Public Defense Commission’s primary budget bill for the 2025-27 biennium, the Legislature elected to include the following budget note:

The Department of Administrative Services is requested to unschedule \$22.1 million General Fund in select programs that may be scheduled only after the submission of a report by the Public Defense Commission to the Joint Committee on Ways and Means for the 2026 legislative session, with a detailed comparison between budgeted and actual capacity for both contract providers and Trial Representation Division staff. The report shall include a specific plan of action to address those providers, or the Trial Representation Division, that are operating at less than 90% of budgeted capacity. The Commission is also to report on the preliminary results of the Enhanced Provider Capacity Pilot Program.

The report that follows is intended to meet the requirements of this budget note.

## Budgeted vs. Actual Capacity

**Table 1. Maximum Attorney Caseloads and Case Weights**

Case Type	Annual MAC	Case Weight
<i>Adult Criminal</i>		
Murder	6	50
Jessica’s Law	6	50
BM 11 Case	45	6.7
Major Felony	138	2.2
Minor Felony	165	1.8
Misdemeanor	300	1
Probation Vio	825	0.36
Civil Commit	230	1.3
<i>Juvenile</i>		
Murder	6	50
Delinquency	132	2.3
Dependency	69	4.3
Probation Vio	825	0.36

Since the 2021-23 biennium, the primary model OPDC has utilized for budget development and contracting has been the MAC Model, which is based on defined Maximum Attorney Caseload numbers, broken down by case type. As shown in **Table 1**, each case taken by a public defense attorney is given a weight based on seriousness, ranging from murder and Jessica’s Law cases at the most serious end, down to probation violations. The MAC weighting system is applied to forecasts from the Department of Administrative Services Office of Economic Analysis to forecast the number of attorneys the statewide system in Oregon will need to properly function during a given biennium and it is used during OPDC’s contracting period to determine attorney needs by case type at the county level to ensure that adequate local capacity is available to take cases. Once contracts are in place, annual MAC expectations are analyzed against contractor reported case assignment data to measure the degree to which

budget capacity is congruent with reported capacity within each jurisdiction. Importantly, as shown in Table 1, MAC is applied to both adult criminal and juvenile contracts, although the standards are different due to the different approaches taken in these two areas to prosecuting alleged criminal conduct or delinquent behavior. MAC, therefore, accounts for the majority of the tracking performed by the agency, although one program, the Parent Child Representation Program (PCRP), falls outside of the MAC regime.<sup>1</sup>

<sup>1</sup> PCRP does not operate under a MAC model, but rather an open workload model of 80 open cases for a 1.0 FTE attorney. In the pages that follow, assessments of PCRP budgeted versus actual capacity is based on the percentage of workload used by a contractor, which is calculated by dividing the actual number of open cases by the expected number of open cases per month for a provider on that provider’s FTE.

OPDC entered into contracts for the 2025-27 biennium with providers beginning on October 1, 2025, for a term of eighteen months. Compared to past contracts, the 2025-27 agreement was intended to provide greater accountability for MAC utilization, ensuring that state-level investments in public defense were made in the most efficient manner, consistent with Legislative intent. In a pragmatic sense, however, it is also necessary to recognize that workload within the legal system is inherently inconsistent and unpredictable, as its volume of work is highly dependent on crime trends, local and state law enforcement resources, district attorney charging practices, and local defense attorney resource availability, to name a few. Due to these factors, a single instance of low MAC utilization in one month for a provider does not necessarily indicate that a provider is underperforming relative to its MAC expectations. Indeed, it is not uncommon to see months with high MAC utilization followed by months with lower MAC utilization (and vice versa), as providers work to balance caseloads to meet longer-term MAC utilization under OPDC’s contracts, while maintaining an ethical workload.

OPDC’s 2025-27 contracts include provisions related to MAC utilization that seek accountability while accounting for the unpredictable distribution of cases throughout the contract term. Specifically, two distinct occurrences during the contract term in which the contractor’s monthly caseload increases or decreases by 15 percent are viewed by OPDC as warranting a discussion between OPDC staff and the contractor to discuss the circumstances surrounding the increase or decrease. In essence, while one month may be an aberration, two consecutive months may indicate the beginning of a pattern that, depending on the circumstances in the local jurisdiction, may require some form of intervention. In all, discussions resulting from two months of high or low MAC utilization aim to bring the contractor back toward 90 percent MAC utilization.

Public defense providers report caseload data for the previous month on the 15<sup>th</sup> of every month. This means, for example, that October data reports were submitted to OPDC on November 15<sup>th</sup>, and November data reports were submitted to the agency on December 15<sup>th</sup>. Due to the nature of this reporting schedule, OPDC is including contractors' caseload data for October and November 2025 to enable assessments of MAC utilization using the two months of available data under the new contract, which went into effect on October 1, 2025.

**Table 2** provides a summary of budgeted MAC versus actual capacity, which is denoted by the “Prorated MAC” and “Reported MAC” columns, respectively. The final column of Table 2 provides a summary measure of MAC utilization, which is merely the result of dividing reported MAC by prorated MAC. Overall, MAC utilization among providers for adult criminal cases exceeds 95 percent. Similarly, the overall MAC utilization for the Oregon Trial Division is nearly 92 percent. Juvenile providers in non-PCRPs counties reported lower MAC utilization of nearly 81 percent. Finally, as noted previously, PCRPs providers are not measured according to the MAC standard, so they are separated out in Table 2. Rather, they are assessed based on a comparison between reported open cases versus expected open cases. Statewide, as shown in Table 2, PCRPs providers are expected to maintain an average monthly open caseload of 6,306.4 cases.

<b>Table 2. Public Defense MAC by Provider Type</b>			
<b>Provider Type</b>	<b>Prorated MAC</b>	<b>Reported MAC</b>	<b>MAC Utilization</b>
Adult Criminal	74.606	71.389	95.69%
Juvenile (non-PCRPs)	15.517	12.555	80.91%
OPDC Trial Division†	7.558	6.934	91.75%

	<b>Expected Caseload</b>	<b>Reported Caseload</b>	<b>Utilization Percentage</b>
PCRPs Providers‡	6,306.4	6,109.3	96.87%

† OPDC Trial Division MAC is measured from July 1, 2025 to December 31, 2025.

‡ PCRPs does not operate under a MAC model, but rather an open workload model of 80 open cases for a 1.0 FTE attorney. The percentage shown is the percent of workload used, with the expected number of open cases per month based on FTE being the denominator.

The reported caseload under the 2025-27 contracts so far is 6,109.3 open cases. When the reported caseload is divided by the expected caseload, the resulting utilization rate for PCRCP is nearly 97 percent.

A full list of MAC utilization by contract type and county is provided in the report’s appendix. Details of specific Adult Criminal and Juvenile provider contracts can be found [here](#), and the Trial Division can be found [here](#).

## Review Process

For the analysis of budgeted versus actual capacity, OPDC sorted public defense providers into one of three tiers based on MAC utilization, or the percentage of actual versus prorated capacity for PCRCP providers. The first tier includes those providers who meet or exceed the 90 percent capacity threshold as required in the budget note. As shown in **Table 3**, 107 providers, or 60.45 percent of the total, were found to be at or above 90 percent capacity.

**Table 3. Providers by MAC Utilization Tier**

Tier	Adult Criminal	Juvenile	PCRCP†	OTD Office‡	Total
1 >90%	60	27	18	2	107
2 <90% Monitor	29	15	2	0	46
3 <90% Intervention	13	7	3	1	24
<b>Total</b>	<b>102</b>	<b>49</b>	<b>23</b>	<b>3</b>	<b>177</b>

† PCRCP does not operate under a MAC model, but rather an open workload model of 80 open cases for a 1.0 FTE attorney. The percentage shown is the percent of workload used, with the expected number of open cases per month based on FTE being the denominator.

‡ OPDC Trial Division MAC is measured from July 1, 2025 to December 31, 2025.

This initial analysis identified 70 providers who did not meet the 90 percent capacity threshold. OPDC Contract Compliance Analysts then engaged in a deeper, more focused analysis of these entities, with the aim of determining whether agency intervention was required, as well as the type of intervention that would provide the most effective assistance to a local provider in meeting their MAC requirements. This work resulted in the establishment of two additional tiers, both of which contain entities that were operating below 90 percent capacity as of the end of November:

**Tier 2**, which includes providers who have reasonable, documented explanations for performing below the 90 percent threshold and therefore do not require intervention at this time. Providers in this category will continue to be monitored to ensure MAC utilization goals are met and could be subject to intervention from OPDC if MAC numbers do not improve in the immediate future. The explanations that sorted providers into Tier 2 are described in greater detail below. In total, 46 providers fell into Tier 2, or nearly 26 percent of all providers.

**Tier 3**, which includes providers operating below 90 percent MAC utilization but who do not meet the justifications found for providers in Tier 2. For these providers, the agency has crafted interventions that are described in greater detail below. In total, 24 providers fell into Teir 3, or 13.56 percent of all providers.

## Tier 2: Monitor

Of 177 providers total providers, 70 were operating below 90 percent MAC utilization. Following an analysis of these providers, 46 were assigned to Tier 2, which means that those providers will be monitored to ensure future MAC utilization goals are met and could be subject to intervention from

OPDC if MAC numbers do not improve in the immediate future. Inclusion in Tier 2 could be traceable to five factors, which will be explained in greater detail in the subsections that follow: (i) contractors with specialty or statewide contracts, (ii) contractors whose MAC was impacted by the 2025-27 biennial MAC reset, (iii) providers with less than half time contracts that are too small for drawing reliable data conclusions, (iv) intentional jurisdictional capacity planning, and (v) providers under 90 percent in non-crisis counties who would not benefit from intervention at this time.

## Specialty and Statewide Contracts

Thirteen Tier 2 contractors are statewide or specialty contractors who experience utilization impacts due to the operational structure of their practice areas. While MAC standards are designed to reflect mixed caseloads, OPDC recognizes the benefits of maintaining contracts with some providers who specialize in unique practice areas and complex or high-severity cases. For example, some contractors primarily or exclusively handle murder cases, for which a 1.0 MAC equates to approximately six cases per year. These cases arise unpredictably and require sustained availability, which means that utilization may appear low between filings or when there are gaps between case assignments. As long as these contractors remain prepared and capable of accepting and fully staffing murder cases when they occur, OPDC does not consider temporary low utilization at this stage of the contract to be a compliance concern.

The thirteen providers falling into this category are reported in **Table 4**. Four of the thirteen contractors provide representation for individuals in civil commitment matters. This case type has proven to be difficult to forecast and is also predicted to be impacted by the passage of House Bill 2005 (2025), which took effect at the beginning of 2026. Other contractors falling into this category include those providing statewide appeals coverage, which accounts for four contractors, and one contractor providing coverage for complex Jessica’s law cases. Other specialty contracts include statewide or multi-jurisdictional contracts and post-conviction relief (PCR) cases.

**Table 4. Specialty and Statewide Contracts Below 90% Utilization**

County/ Region	Provider	Contract Type	Reported MAC	Prorated MAC	MAC Utilization
Clack	Law Office of Amanda J. Marshall	(AC) Civil Commitment	0.157	0.192	81.44%
Clack	The Law Offices of Mary Tongel	(AC) Civil Commitment	0.170	0.192	88.23%
Statewide	Christopher M. Clayhold	(AC) Murder	0.000	0.167	0.00%
Statewide	Equal Justice Law	(AC) PCR Appeals	0.360	0.739	48.74%
Statewide	Law Office of Alsept & Ellis	(AC) PCR Murder	0.000	0.167	0.00%
Statewide	Liza Langford	(AC) Appeals	0.050	0.100	49.86%
Statewide	Multnomah Defenders, Inc.	(AC) Appeals, Civil Commitment	0.233	0.334	69.81%
Statewide	Richard L. Wolf, P.C.	(AC) Murder	0.000	0.167	0.00%
Statewide	Teena M. Killian	(AC) PCR Murder	0.022	0.192	11.56%
Statewide	Youth, Rights & Justice	(JC) Appeals	0.097	0.468	20.62%
Mult	Disability Rights Oregon	(AC) Civil Commitment	0.283	0.501	56.37%
Multi	Hollingsworth Law Office	(AC)	0.074	0.15	49.04%
Multi	Johnstone & Obert	(AC) Jessica’s Law	0.000	0.125	0.00%

## Contractor MAC Impacted by the 2025-27 Biennial MAC Reset

MAC utilization rates can and often do fluctuate month-to-month based on a variety of factors. These factors can include fluctuations in the supply of cases available to providers, “current” open cases which may impact a provider’s ability to take additional cases while maintaining an ethical caseload, and dynamics within a jurisdiction that may necessitate one contractor taking on additional cases above a normal rate to ensure adequate representation within the jurisdiction. Further, dynamics present at the end of a contract cycle can impact MAC rates at the conclusion of one contract, which impacts case pickup rates at the beginning of the next contract cycle. For example, in several jurisdictions at the conclusion of the 2023-25 contracts, one or more providers met their annual MAC expectations before the end of September 2025, leading other providers within the jurisdiction to pick up cases at a higher-than-normal rate to ensure the jurisdiction did not develop an unrepresented crisis. By taking higher caseloads in this manner, sometimes well above normal MAC expectations, these providers effectively limited their ability to take cases in October under the new contracts. Alternatively, contractors working to meet MAC expectations at the end of the 2023-25 contract may have needed to take more cases than they would during a normal month, which led to a higher number of open cases as the provider moved into the new contract period.

Based on this dynamic, OPDC examined whether calculating provider MAC from September to November would bring any of the 70 contractors listed in Table 3 above the 90 percent threshold. Following this exercise, nine contractors were identified as providers who would be above 90 percent MAC if the impacts of their September 2025 case assignments were taken into account. These nine providers, along with their calculated September to November utilization rates, are reported in **Table 5**. Importantly, while OPDC believes that contractors in this category do not require immediate intervention given that their lower MAC utilization rates appear to be driven by open caseloads assigned before the beginning of the current contract, they will be closely monitored going forward to ensure that December case pickup rates bring those providers up to 90 percent. If any of the providers in Table 5 continue to fall below 90 percent, OPDC will evaluate the cause and move them to Tier 3 if justified so that an action plan can be developed to bring them into compliance with MAC expectations.

**Table 5. Contractors whose MAC was Impacted by the 2025-27 Biennial MAC Reset**

County	Provider	Type	Prorated MAC	Reported MAC	†MAC Utilization	Sept-Nov Utilization
Baker	Elkhorn Public Defender	AC	0.169	0.138	81.84%	101%
Colum	Columbia County Indigent Defense	AC	0.585	0.518	88.52%	90%
Grant/ Harney	Steens Mountain Defenders	JC	0.057	0.039	68.61%	215%
Jack	Megan B. Annand	AC	0.084	0.070	83.25%	94%
Jose	Josephine County Defense Lawyers	JC	0.510	0.340	66.67%	106%
Klam	Philip Studenberg, Public Defender Services of Lane Co.	AC	0.160	0.014	8.69%	122%
Lane	Portland Defense Consortium	AC	2.408	1.890	78.49%	103%
Mult	Cornerstone Law Group	JC	0.284	0.240	71.81%	99%

† Two-month MAC Utilization for October and November 2025.

## Contracts Too Small for Reliable Trend Analysis

Some contracts are so small that two months of data do not allow the agency to draw meaningful conclusions about providers' MAC performance. As shown in **Table 6**, five providers who have utilization rates below 90 percent are contracted for less than 0.5 MAC annually. For example, a 0.2 MAC criminal contract translates to approximately 2.3 A/B felonies per month. For these providers, reporting 2 cases versus 3 in a single month could significantly affect utilization rates. Further, all five of these contracts are in rural counties, and none are in unrepresented crisis counties. Table 6 reports data on these five providers and provides a breakdown of their prorated versus reported MAC. In addition, Table 6 reports the hypothetical number of misdemeanors each contractor would need to take to reach 90 percent utilization, a figure intended to provide further context on the magnitude of the utilization gap for each provider. It is noteworthy that, combined, these contractors would only need 15.2 additional misdemeanors in December 2025 to reach 90% MAC as a group, despite the low MAC utilization numbers reported in the previous columns. This illustrates the challenge of using MAC as an assessment tool for small providers who work less than full-time for the agency. OPDC intends to continue monitoring these providers to determine whether they are closer to meeting MAC expectations in the coming months.

**Table 6. Small Contractors Below 90% Utilization**

County	Provider	Type	MAC Utilization	Prorated MAC	Reported MAC	Misdos for 90%
Baker	Whitnah Law	JC	26.55%	0.047	0.012	4.0
Grant/Harn	Whitnah Law	JC	39.42%	0.074	0.029	5.0
Union/Wall	Law Office of Jeffrey C. MacNeilly	JC	33.35%	0.043	0.014	3.3
Union/Wall	James A. Schaeffer	JC	76.75%	0.042	0.032	0.8
Union/Wall	Rick Dall Attorney at Law	JC	52.82%	0.042	0.022	2.1

## Intentional Jurisdictional Capacity Planning

Like many states in the Western U.S., Oregon's varied geographies and population distribution across them present unique challenges to the delivery of public safety services to its residents, including public defense services. Indeed, some of Oregon's counties are physically larger than entire states but have fewer than ten-thousand residents living within those vast landscapes. In these areas, for example, while demand for public defense services is relatively low due to the small local population, the size of the local jurisdiction increases the time a defense attorney spends on their cases, due to travel time and other factors. Further, because the local legal community is small, conflicts can easily arise, leading to cases that need to be handled by other providers. Due to these factors, and others, OPDC recognizes that rural and frontier counties often do not fit neatly into the forecast-based contracting approach OPDC uses in more populous counties. Rather, in many rural jurisdictions, OPDC engages in intentional capacity planning based on jurisdictional needs in these areas, which may result in "over-contracting" in these regions to ensure that constitutionally adequate public defense resources remain available. **Table 7** includes data on thirteen contractors operating in rural areas where OPDC has endeavored to meet local needs through contracting that differs slightly from what the DAS OEA forecast would require.

**Table 7. Rural Contractors Below 90% Utilization**

County	Provider	Type	Prorated MAC	Reported MAC	MAC Utilization	Misdos for 90%
Baker	Yervasi Law, P.C. - Adult Criminal	AC	0.084	0.025	30.10%	15.2
Columbia	Justice Alliance of Columbia County	AC	0.234	0.141	60.47%	20.9
Josephine	Southern Oregon Public Def	AC	0.345	0.267	77.17%	13.1
Lake	Spencer Law	AC	0.167	0.086	51.38%	19.3
Malheur	Elkhorn Public Defender	AC	0.449	0.374	83.24%	9.0
Malheur	Frontier Legal	AC	0.150	0.038	25.57%	29.1
Tillamook	Tillamook County Defense Consortium	AC	0.393	0.263	66.97%	27.2
Union/Wall	Elkhorn Public Defender	AC	0.102	0.051	50.23%	12.2
Union/Wall	James A. Schaeffer	AC	0.125	0.101	80.92%	3.5
Union/Wall	LJ Legal Solutions	AC	0.120	0.104	86.11%	1.2
Union/Wall	Rick Dall Attorney at Law	AC	0.120	0.062	51.35%	13.8
<i>PRCP Providers</i> <sup>†</sup>						
Bent/Polk	Jarvis Bridge Halttunen and Weyer	PCRCP	128.8	89.3	69.29%	26.6
Clatsop/Columbia	Columbia County Indigent Defense Corporation	PCRCP	80.0	45.5	56.88%	26.5

<sup>†</sup> PCRCP does not operate under a MAC model, but rather an open workload model of 80 open cases for a 1.0 FTE attorney. The percentage shown is the percent of workload used, with the expected number of open cases per month based on FTE being the denominator.

By monitoring local case and provider trends, OPDC intends to continue refining its contracting in rural counties with small populations to improve the efficiency and effectiveness of public defense services in those jurisdictions. This work includes the development of additional measures of local need beyond MAC utilization that better account for the unique challenges of serving these jurisdictions.

## Full Representation

There are six additional providers that did not meet the 90 percent threshold and do not fall into one of the categories described in the sections above. These six providers, however, operate in jurisdictions with fewer than five unrepresented individuals, adult or juvenile, depending on the contract. In these jurisdictions, providers are meeting local needs and, in some cases, taking cross-jurisdictional cases when necessary. For these providers, continued low utilization rates could indicate that OPDC is overcontracted; however, OPDC would base reallocation decisions—particularly those that could lead to reductions in attorney positions—on more than two months of data. Potential solutions could also include rebalancing MAC between juvenile/PCRCP services and adult criminal services within the same provider, especially in counties with an adult unrepresented population but no similar concerns in the juvenile arena, or reallocating MAC to other areas. **Table 8** lists these contractors.

**Table 8. Contractors below 90% Utilization in Jurisdictions with <5 Unrepresented Persons**

County	Provider	Type	Prorated MAC	Reported MAC	MAC Utilization	Misdos for 90%
Lane	Lane County Juvenile Lawyers Association	JC	2.198	1.464	66.63%	67.9
Lane	Public Defender Services of Lane County	JC	0.627	0.341	54.40%	29.5
Marion	Juvenile Advocacy Collective	JC	2.385	1.487	62.36%	87.1
Wash	Hillsboro Law Group	JC	0.167	0.130	78.05%	2.7
Wash	Oregon Defense Attorney Consortium	JC	0.334	0.181	54.20%	15.8
Wash	Metropolitan Public Defender Services, Inc.	JC	0.627	0.356	56.82%	27.5

### Tier 3: Intervention

OPDC’s Compliance Manager is responsible for ensuring that providers adhere to their contractual obligations. When providers fall out of compliance, OPDC’s Contract Compliance Analysts work directly with providers to identify contributing factors, develop corrective strategies, and document agency interventions. Twenty-four providers, or around 13.5 percent of all providers, are classified as Tier 3 and OPDC is actively working with them to develop, or has already implemented, individualized plans of action to increase MAC utilization. These plans generally fall into three categories, which will be explained in greater detail in the subsections that follow: (i) addressing operational barriers, (ii) filling vacancies, and (iii) issuing an increased caseload assignment plan.

### Addressing Operational Barriers

As shown in **Table 9**, thirteen providers, just over half of those in Tier 3, are experiencing operational or structural barriers to meeting their MAC, which include internal or external limitations such as specialty case assignments, low or fluctuating case filings, or short-term staffing constraints. OPDC is working with these providers to address these barriers and adjust workflows where feasible.

OPDC has already intervened with eight of these providers through adjustments in MAC, either in October during the initial 2025-27 contracting phase or through amendments made in December (denoted in Table 9 as “previously adjusted”). In some of these jurisdictions, low MAC numbers were primarily attributable to reduced case filings, which resulted in excess MAC given the existing caseload. OPDC reduced MAC in these instances. In other cases, MAC was redistributed within an entity between its adult criminal and juvenile contracts. This was done when there was excess MAC for juvenile cases and insufficient MAC for adult criminal cases. It will take more time to determine the impact of these adjustments on MAC utilization and to determine whether further adjustments are needed. OPDC is cautious and deliberate when making capacity reductions, as the agency strives to avoid overcorrecting downward in response to falling case filings, given the difficulties presented when trying to scale contracts up (e.g., hiring new attorneys can take several months, during which time a crisis could arise in an under-resourced area). Many of these providers are also all within rural jurisdictions, and OPDC is cognizant of the unique jurisdictional needs of rural areas (see *Intentional Jurisdictional Capacity Planning* on pages 12-13).

The other five providers face different operational barriers, including short-term staffing constraints such as illness or protected leave, most of which have now been resolved. Fluctuating case filings, some caused by changes in staffing in the District Attorney’s or Sheriff’s office, have also led to lower case

pick-ups in the first two months of the contract for other providers. OPDC analysts have discussed these barriers with providers and believe they have been resolved or will be resolved in the coming months, and that MAC utilization will increase. OPDC will increase intervention if needed.

**Table 9. Providers with Operational Barriers Below 90% Utilization**

County/JD	Provider	Type	Prorated MAC	Reported MAC	MAC Utilization	Misdos for 90%
<i>Operational Barriers</i>						
Curry	Curry County Public Defense	AC	0.371	0.257	69.30%	23.1
Deschutes	Deschutes Defenders	JC	0.354	0.205	57.73%	15.0
Douglas	Arneson, Stewart & Styarfyr	AC	0.343	0.261	76.17%	14.3
Lane	Lane County Defense Consortium	AC	1.387	0.989	71.30%	77.8
<i>Providers whose MAC was Previously Adjusted</i>						
7th District	7th District Consortium	AC	0.475	0.346	72.82%	24.5
7th District	Columbia Gorge Defenders	AC	1.263	0.843	66.70%	88.1
7th District	Columbia Gorge Defenders	JC	0.102	0.074	72.37%	2.3
Benton	Benton County Legal Def Corp	AC	1.414	1.168	82.59%	31.4
Malheur	Five Rivers Law	AC	0.368	0.191	51.84%	42.1
Malheur	Five Rivers Law	JC	0.184	0.138	75.07%	3.6

PCRPs Providers†

County/JD	Provider	Type	Expected Caseload	Reported Caseload	Utilization Percent	Misdos for 90%
Douglas	Arneson, Stewart & Styarfyr	PCRPs	392	328.5	83.80%	24.3
<i>PCRPs Providers† whose Contracts were Previously Adjusted</i>						
Multnomah	Metropolitan Public Defender Services	PCRPs	921.6	826	89.63%	3.4
Multnomah	Multnomah Defenders, Inc	PCRPs	553.6	482	87.07%	16.2

† PCRPs does not operate under a MAC model, but rather an open workload model of 80 open cases for a 1.0 FTE attorney. The percentage shown is the percent of workload used, with the expected number of open cases per month based on FTE being the denominator.

## Filling Vacancies

Two Tier 3 providers are experiencing attorney vacancies or pending departures that are contributing to reduced utilization. OPDC recognizes that when an attorney has provided notice of resignation or separation, contractors reduce case assignments or cease assigning new cases altogether to the departing attorney to allow for a winding-down of that individual’s caseload. This necessary transition period temporarily lowers a provider’s MAC utilization. **Table 10** lists the providers experiencing vacancy challenges that are impacting their MAC utilization.

OPDC is working with the one capacity contract provider to ensure vacancies are filled. Under OPDC policy, contract vacancies are funded at 50 percent for up to 60 calendar days. At OPDC’s discretion, it may fund vacancies for an additional 60 days. After that time, if the vacancy is not filled, it can be removed from the contract, reducing MAC requirements for that provider going forward.

**Table 10. Providers Below 90% Utilization with Vacancy Challenges**

County	Provider	Type	Prorated MAC	Reported MAC	MAC Utilization	Misdos for 90%
Jack	Southern Oregon Public Defender	JC	0.501	0.102	20.37%	46.1
Marion/ Statewide	Central Valley Regional Trial Division	AC	2.147	1.558	72.60%	112.3

In addition to the capacity contract provider discussed above, OPDC’s Central Valley Regional Trial Division (CVRTD) Office is also experiencing vacancy challenges. The nature of these vacancies is similar in many ways to those experienced by providers, but it also highlights some of the unique challenges that OPDC faces in managing its attorneys within the Oregon Trial Division.

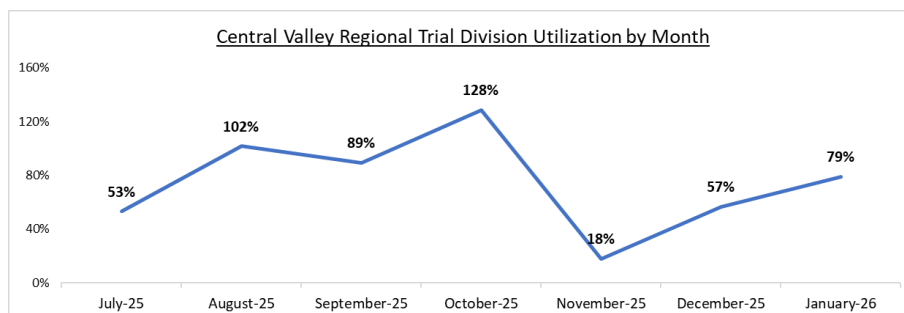
In November, three CVRTD attorneys entered wind-down status, reducing the number of cases assigned to the CVRTD and significantly impacting the office’s MAC. The first attorney in this group falls into the more traditional “vacancy” category, as this individual submitted their resignation and intends to leave the public defense field. During this attorney’s wind-down period, no new cases were assigned as the attorney focused on closing existing matters. Remaining open cases were then redistributed within the office in accordance with OPDC policy, which credits attorneys within the same contract or office with 50 percent MAC for cases previously assigned to that provider.

The other two attorneys in wind-down status do not fall into the typical “vacancy” category, although the impact on MAC is similar to that of a departing attorney. One of these two attorneys transitioned from a standard Deputy Defender position into a newly created Early Resolution Docket (ERD) position, which was authorized during the 2025 Legislative Session. Because early resolution dockets function differently from normal caseloads, OPDC treats this attorney’s workload the same way it would a specialty court contract, meaning cases assigned to that role do not count toward MAC, consistent with OPDC policy. As with any transition to a specialty assignment, the attorney’s MAC did not increase during this period.

The final attorney going through the wind-down process had been temporarily assigned to Coos County to help alleviate the unrepresented crisis there. That deployment, combined with the work of the local non-profit provider and the addition of a new consortium in October for the 2025-27 contract period, has effectively eliminated the unrepresented persons list in Coos County. As OPDC’s CVRTD attorney prepared to rotate back to Marion County, she had to wind down and close out her cases in Coos County, which temporarily reduced her ability to take new case intake during the transition.

To address these concerns, OPDC hired two new attorneys in mid-January to fill the position vacated by the departing attorney, as well as the Deputy Defender position previously occupied by the ERD attorney. One of the new attorneys was hired from outside of Oregon and entered employment at OPDC ready to take on a full caseload. The other attorney came from outside of public defense and will be able to take on a full caseload as well.

**Figure 1**



**Figure 1** presents monthly utilization for the CVRTD over the past seven months. As shown in the figure, utilization was particularly low during November and December of 2025, as the three transitions described above occurred.

Utilization has already rebounded in January and is expected to increase further with the addition of two new attorneys mid-month who enter the field without preexisting caseload responsibilities.

## Caseload Assignment Plans

As shown in **Table 11**, nine Tier 3 providers did not meet any of the above criteria. One way that OPDC is working with these providers to increase case assignments through increased pick-up dates by the individual provider. OPDC worked with the provider in Polk County in Table 11, for example, to add additional case pick-up days, which will increase their MAC while allowing the other Polk providers who are substantially over MAC to decrease their caseload. A second way that OPDC is working with providers is through coordinating and equalizing case assignments across providers within a particular jurisdiction. In Yamhill County, the jurisdiction's smaller size means individual case assignments can significantly impact MAC month to month. Recently, one Yamhill provider took a Jessica's Law case early in the new contract, resulting in their MAC significantly exceeding 100 percent. A pick-up plan is in place to assign future higher level cases to the other contractors on rotation, particularly those found in Table 11. Crook/Jefferson and Union/Wallowa both gained providers in the 2025-27 contracts which led to unequal case distribution amongst them. OPDC has addressed the unequal case distribution issue with providers and the court and expects this to be resolved as the jurisdiction becomes more accustomed to the new provider structure. The Clackamas contract is a new sole provider and has been provided a pickup plan to bring them into compliance over the next six months. The expected results for all of these jurisdiction's assignment plans are to even out MAC utilization across contractors within those jurisdictions, ensuring all providers operate at 90-100 percent utilization.

**Table 11. Providers Below 90% Utilization with Pick Up Plan**

County	Provider	Type	MAC Utilization	Prorated MAC	Reported MAC	Misdos for 90%
Clackamas	Hupy Law	JC	43.95%	0.167	0.073	10.2
Crook/Jeff	22nd Circuit Defenders	AC	46.19%	1.170	0.540	153.9
Crook/Jeff	22nd Circuit Defenders	JC	77.28%	0.359	0.278	6.0
Klamath	Dougherty Law	AC	53.06%	0.137	0.073	15.1
Marion	Public Defender of Marion County	AC	5.75%	2.49	0.143	629.4
Polk	Jarvis Bridge Halttunen and Weyer	AC	69.23%	0.819	0.567	51.0
Union/Wallowa	LJ Legal Solutions	JC	0.00%	0.042	0.00	5.0
Yamhill	Scott A. Hodgess	AC	66.00%	0.167	0.11	12.1
Yamhill	Yamhill Defense Consortium	AC	67.05%	1.671	1.121	114.9

A unique situation in Table 11 is the Public Defender of Marion County. At the conclusion of the 2025-27 contract negotiation period, the Public Defender of Marion County filed a lawsuit against OPDC challenging terms within the 2025-27 contract template related to MAC. Following the issuance of a temporary injunction related to OPDC's ability to require contractors to meet MAC expectations when doing so would impact an attorney's ethical capacity, OPDC entered into a 2025-27 contract with Public Defender of Marion County on December 16, 2025. At the request of the Public Defender of Marion County, the contract was backdated to October 1, 2025, meaning MAC calculations for this entity include that period. As of the release of this report, a trial is scheduled for this matter in mid-February.

In the interim, OPDC is working with the Marion County Circuit Court and Public Defender of Marion County to ensure continuity of representation for eligible clients while maintaining compliance with the court’s order, existing ethical obligations, and OPDC’s contract requirements. OPDC’s analysts and data unit are developing a case-pickup plan to help the provider increase MAC utilization. OPDC continues to monitor appointments, caseload capacity, and service delivery in Marion County and will make any necessary adjustments consistent with the outcome of the pending litigation and applicable legal guidance.

### Enhanced Provider Capacity Pilot Program

For the 2025-27 contract cycle starting on October 1, 2025, OPDC revised its contract terms to facilitate the appointment and compensation of sufficiently experienced attorneys with the necessary ethical capacity to take cases exceeding current MAC limits, up to 115 percent, on a voluntary basis. When entering into the 2025-27 contracts, providers were asked to specify how far above standard MAC expectations they were willing to go, in 5 percent increments (to ensure MAC overages were within attorneys’ ethical abilities). As of the end of November 2025, there were 39 participants in this program for a forecasted total of 4.8 additional MAC throughout the contract period, which equates to 0.802 additional MAC between October and November.

Table 12 provides a breakdown of the participants in October and November by their contracted (prorated) MAC amounts, which includes the enhanced capacity they are contracted for above 100 percent.

**Table 12. MAC Utilization of the Exceed Caseload Program Participants**

<b>ECP %</b>	<b>Prorated MAC</b>	<b>MAC Reported</b>	<b>MAC Utilization</b>
5%	0.334	0.347	103.9%
10%	2.930	3.294	112.4%
15%	3.912	3.998	102.2%
<b>Total</b>	<b>7.176</b>	<b>7.639</b>	<b>106.5%</b>

Currently, as shown in Table 12, the program is exceeding MAC targets, as the participants in this program have taken cases in excess of their prorated MAC. For context, program participants in this pilot have represented the equivalent of 379 misdemeanors in October and November above their traditional MAC requirements.

## Appendix. Utilization by Provider Type and County/Region

### Adult Trial Contractors

Contract County	Utilization	Reported		
		MAC	Prorated MAC	Capacity Remaining
7 <sup>th</sup> District	<b>67.31%</b>	<b>1.170</b>	<b>1.738</b>	<b>0.568</b>
Baker	72.91%	0.218	0.299	0.081
Benton	82.59%	1.168	1.414	0.246
Clackamas	99.17%	5.388	5.434	0.046
Clatsop	117.58%	1.264	1.075	-0.189
Columbia	80.50%	0.659	0.819	0.16
Coos/Curry	105.62%	1.784	1.689	-0.095
Crook/Jefferson	62.95%	0.994	1.579	0.585
Curry	69.30%	0.257	0.371	0.114
Deschutes	109.14%	4.256	3.899	-0.357
Douglas	94.15%	1.406	1.494	0.088
Grant/Harney	104.40%	0.178	0.17	-0.008
Jackson	103.79%	4.069	3.921	-0.148
Josephine	116.33%	1.442	1.24	-0.202
Klamath	122.10%	2.451	2.007	-0.444
Lake	51.38%	0.086	0.167	0.081
Lane	67.75%	3.46	5.106	1.646
Lincoln	101.16%	1.259	1.245	-0.014
Linn	95.00%	2.294	2.415	0.121
Malheur	94.83%	1.099	1.159	0.06
Marion	60.69%	3.71	6.113	2.403
Multnomah	100.82%	12.147	12.048	-0.099
Polk	129.33%	1.715	1.326	-0.389
Tillamook	66.97%	0.263	0.393	0.13
Umatilla/Marrow	111.65%	1.962	1.758	-0.204
Union/Wallowa	112.36%	0.809	0.720	-0.089
Washington	100.88%	7.168	7.106	-0.062
Yamhill	76.48%	1.566	2.047	0.481
Statewide/Multijurisdictional	118.94%	7.404	6.225	-1.179
<b>Total</b>	<b>95.69%</b>	<b>71.389</b>	<b>74.606</b>	<b>3.217</b>

## Juvenile Contractors

<b>Contract County</b>	<b>Utilization</b>	<b>Reported MAC</b>	<b>Prorated MAC</b>	<b>Capacity Remaining</b>
7th District	87.21%	0.35	0.401	0.051
Baker	119.28%	0.13	0.109	-0.021
Clackamas	131.71%	1.345	1.021	-0.324
Crook, Jefferson	91.55%	0.497	0.543	0.046
Curry	251.63%	0.307	0.122	-0.185
Deschutes	89.46%	1.035	1.156	0.121
Grant, Harney	52.14%	0.068	0.13	0.062
Jackson	84.21%	1.641	1.949	0.308
Josephine	66.67%	0.34	0.51	0.17
Klamath	122.69%	0.673	0.548	-0.125
Lane	62.89%	1.776	2.824	1.048
Malheur	95.34%	0.398	0.418	0.02
Marion	62.36%	1.487	2.385	0.898
Tillamook	132.05%	0.154	0.117	-0.037
Umatilla/Morrow	105.16%	0.632	0.601	-0.031
Union, Wallowa	40.66%	0.069	0.169	0.1
Washington	70.22%	1.266	1.802	0.536
Statewide/Multijurisdictional	54.35%	0.387	0.712	0.325
<b>Total</b>	<b>80.91%</b>	<b>12.555</b>	<b>15.517</b>	<b>2.962</b>

## Parent Child Representation Program

<b>Contract County</b>	<b>Utilization</b>	<b>Reported PCRPP Case Count</b>	<b>Expected PCRPP Case Count</b>	<b>Open Case Capacity</b>
Benton	99.31%	71.5	72.0	0.5
Coos	115.66%	365.5	316.0	-49.5
Douglas	90.54%	670.0	740.0	70.0
Lincoln	105.00%	336.0	320.0	-16.0
Linn	98.56%	615.0	624.0	9.0
Multnomah	98.12%	2,577.8	2,627.2	49.4
Polk	92.70%	330.0	356.0	26.0
Yamhill	103.20%	330.3	320.0	-10.3
Multijurisdictional	87.33%	813.3	931.2	117.9
<b>Total</b>	<b>96.87%</b>	<b>6,109.3</b>	<b>6,306.4</b>	<b>197.1</b>

\*PCRPP does not operate under a MAC model, but rather an open workload model of 80 open cases for a 1.0 FTE attorney. The percentage shown is the percent of workload used, with the expected number of open cases per month based on FTE being the denominator.

## Oregon Trial Division

<b>Trial Division Region</b>	<b>Utilization</b>	<b>Reported MAC</b>	<b>Prorated MAC</b>	<b>Capacity Remaining</b>
Central Valley Region	75.56%	1.558	2.147	0.589
Northwest Region	103.51%	3.051	2.948	-0.103
Southern Region	94.50%	2.328	2.463	0.135

\*Trial Division MAC is measured from July 1, 2025 to December 31, 2025.