

Application and Contribution Program (ACP)

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Subcommittee On Public Safety

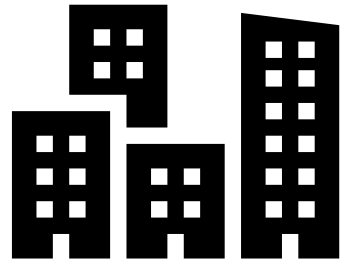
Constitutional and Statutory Rights to Counsel

- U.S. Constitution - 6th and 14th Amendments
- Oregon Constitution - Article I, section 11
- All cases in which a person may be sentenced to a term of incarceration or deprived of liberty and any direct appeal in those cases.
- Case types include criminal, juvenile delinquency, civil commitments, post-conviction relief, juvenile dependency, and protective proceedings.

ORS 151.485(1) - Eligibility Criteria

A person is financially eligible for appointed counsel if the person is determined to be financially unable to retain adequate counsel without substantial hardship in providing basic economic necessities to the person or the person's dependent family under standards established by the Oregon Public Defense Commission under ORS 151.216.

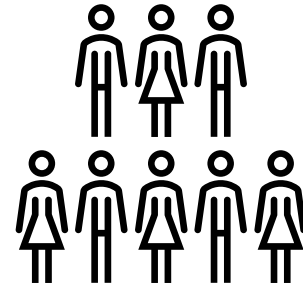
ACP PROGRAM



Oregon Public Defense Commission

ORS 151.216, 151.487

- Authority to set standards and procedures for determining eligibility and costs of representation
- Responsible for setting guidelines for ACP
- Provides attorneys through staffing and contracts



Verification Specialists (OJD)

ORS 151.485-151.495

- Interview and assist applicants completing forms
- Calculate eligibility and ability to pay
- Make recommendations to the judge
- Investigate financial information provided in application ("verification")



Judge (OJD)

ORS 151.487, 151.505

- Make determination to appoint/deny attorney
- Issue limited judgment for application and contribution amount (goes to ACP account)
- Assess ability to pay again at the end of a case and impose additional fees if appropriate (goes to General Fund)

Court Processes

At Arraignment

Assess Eligibility
Application (Financial Statement)

If ability to pay, impose “OPDC
Application Fee and Contribution
Amount”

Verify Application
(adjust as needed)

At Sentencing

Judge assesses ability to pay
and makes finding

If ability to pay, impose “OPDC
Attorney Fees”

At The Start Of A Case

Applying For Court Appointed Counsel

Application Process Steps

1. [Application For Appointment Of Counsel & Declaration In Support](#)
2. Eligibility – Evaluate applicant’s available financial resources; compare to OPDC Private Attorney Fee Schedule
3. If eligible, court imposes fees based upon ability to pay
 - a) OPDC Application Fee \$20
 - b) OPDC Contribution Amount **imposed at arraignment**

ACP Calculator

- For each applicant, court staff enter the following information into an ACP calculator:
 - applicant's financial information,
 - case type,
 - private attorney fee schedule amount, and
 - max contribution amount.
- With that information, the calculator produces a recommendation to:
 - appoint or deny counsel, and
 - the application fee and contribution amount.
- A judge reviews the recommendation and decides to appoint/deny counsel and fee amounts to impose.

ACP FEE CALCULATOR - Updated 2/2025		
Name	Case Number	Degree
Jane Doe	CR123456	A-Mis
	Enter	
Private Attorney Fee Schedule	\$2,500	Determining Eligibility
ACP Contribution Schedule	\$215	Monthly NET Household Income
Interpreter - Enter \$150 if needed	\$150	Assets/Alternative Assets
		SUBTOTAL
Household Size		Monthly Expenses
Applicant	1	Available Resources
Spouse	1	
Dependents	1	Total Cost of Private Representation
Other		
TOTAL	3	CAC RECOMMENDATION
		ALLOW
Monthly NET Household Income		APPLICATION FEE RECOMMENDATION
Applicant	\$3,600	ORDER
Spouse (if applicable)		Application Fee
Social Security / SSI		Available Resources Less Application Fee
Unemployment Benefit		Allowed Assets
Retirement Distributions (Pension, 401K, IRA)		Remaining Resources to Contribute
Tribal Benefits		CONTRIBUTION AMOUNT RECOMMENDATION
Spousal / Child Support Received	\$250	\$215
Other		Notes
TOTAL	\$3,850	
Federal Poverty Guideline Amount	\$2,223	
Additional Allowable Expenses		
Medical / Insurance Monthly Payments	\$150	
Court Payments (need receipt)		
Wage Garnishment or Support		
Child Care	\$800	
Student Loan Payments	\$450	
Total Eligible Expenses	\$3,623	
Assets		
Real Estate (equity)		
Vehicle(s) (Equity over \$6,000)		
ATVs, recreational equipment, RVs, etc.		
Cash	\$450	
Savings		
Bank Account(s)		
Stock / Bonds / Securities		
Other		
TOTAL	\$450	
Unemployed Applicant w/Assets	n/a	

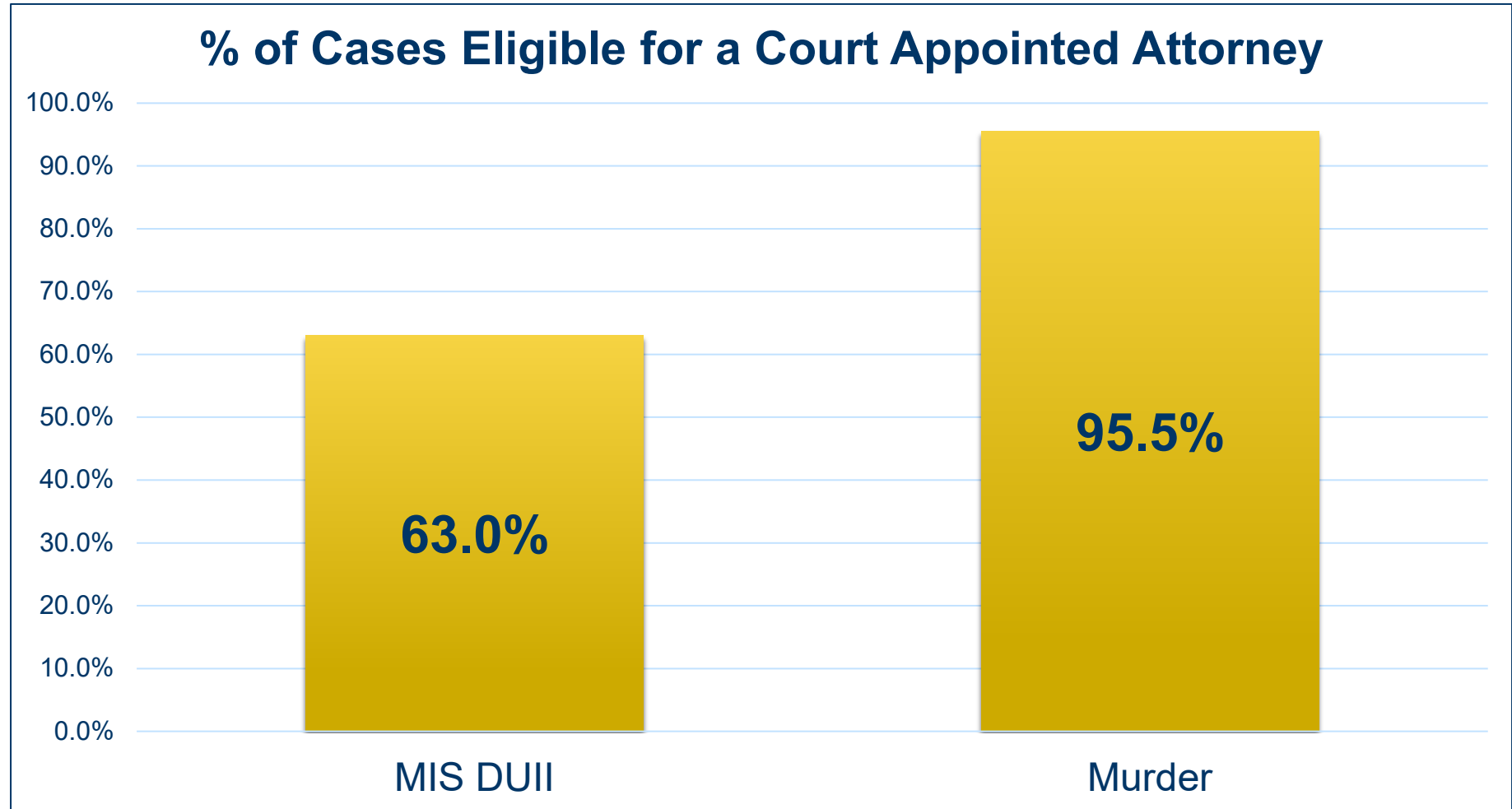
ORS 151.485 - OPDC Eligibility Criteria For Court Appointed Counsel

- OPDC provides courts with the estimated cost of hiring a private attorney (last updated in 2011)
- This information is used as the benchmark to determine whether an applicant has adequate financial resources to hire a private attorney

PRIVATE ATTORNEY FEE SCHEDULE Pursuant to ORS 151.485 - Effective January 1, 2011	
Homicides	
Aggravated Murder	\$100,000
Intentional, Felony Murder	\$50,000
Manslaughter I or II (Class A or B Felony)	\$25,000
Criminally Negligent Homicide (Class C Felony)	\$12,000
Assault/Kidnap/Robbery/Menacing/Harassment	
Attempted Murder	\$12,000
Assault I or II, Kidnap I or II, Robbery I or II (Class A or B Felony)	\$12,000
Assault III or IV, Assaulting a Public Safety Officer, Robbery III (Class C Felony)	\$6,000
Resisting Arrest (Misdemeanor)	\$3,000
Assault IV, Menacing, Recklessly Endangering, Harassment (Misdemeanor)	\$2,500
Sexual Offenses	
Rape I or II, Sodomy I of II, Unlawful Sexual Penetration I or II, Sex Abuse I (Class A or B Felony)	\$15,000
Rape III, Sodomy III, Sex Abuse II (Class C Felony)	\$8,000
Sexual Abuse III (Misdemeanor)	\$6,000
Drug Offenses	
Manufacture/Delivery Controlled Substance Schedule I, II, or III (Class A, B, or C Felony)	\$7,000
Possession Controlled Substance Schedule I or II (Class B or C Felony)	\$5,000
DUII and Driving While Suspended/Revoked (DWS/R)	
Felony DWS/R	\$2,500
Misdemeanor DWS	\$2,000
Felony DUII	\$5,000
Misdemeanor DUII	\$2,500
DUII (Diversion Eligible)	\$1,500



Two Ends of the Spectrum

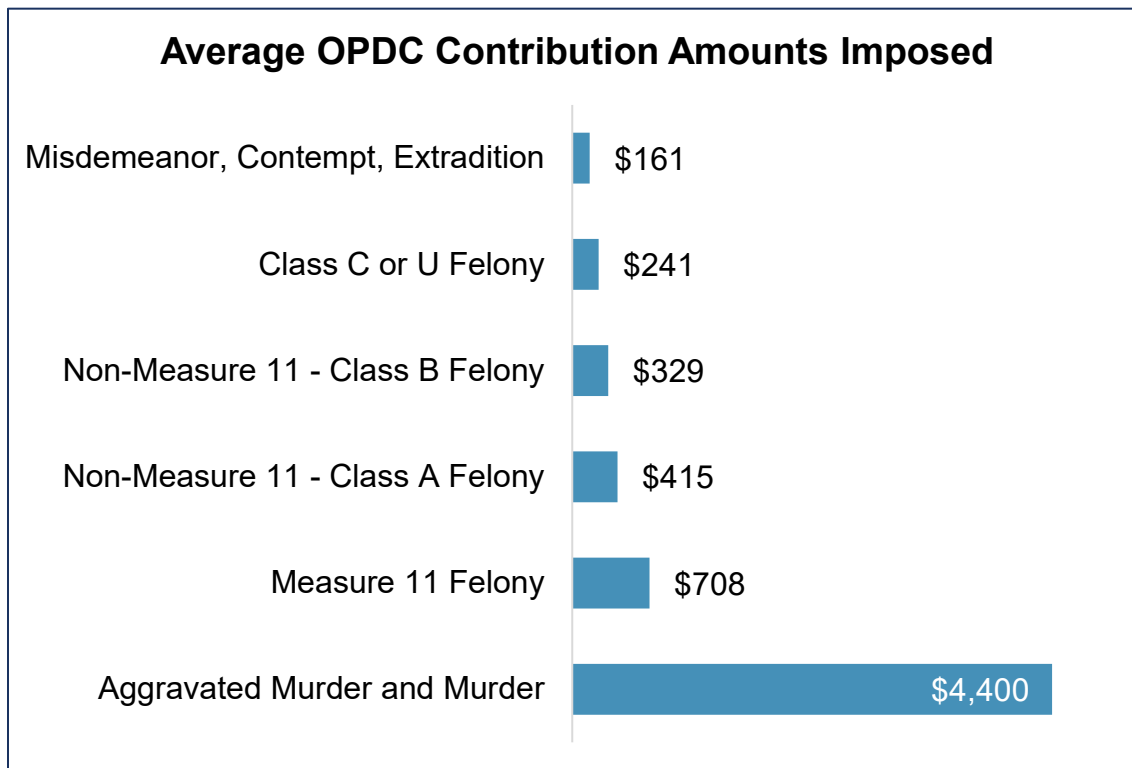


ORS 151.487(1) - OPDC Contribution Amount

OPDC provides to courts the **maximum contribution amount** people should pay towards the cost of their representation at the start of the case

OPDC Schedule of Compensation – Max Contribution Amount and Attorney Fees Pursuant to ORS 151.487(1) and 151.505(2) - Effective January 1, 2016					
Offense Type	OPDC Contract Rate	Average Expenses (Rounded)	Total Cost	At Arraignment Max Contribution Amount	At Sentencing Max Attorney Fees
Aggravated Murder and Murder	\$18,437	\$23,287	\$41,724	\$20,862	\$20,862
Jessica's Law				\$10,084	\$10,084
Measure 11 Felony	\$1,908	\$2,797	\$4,705	\$2,353	\$2,353
Non-Measure 11 - Class A Felony	\$1,146	\$593	\$1,739	\$870	\$870
Non-Measure 11 - Class B Felony	\$955	\$320	\$1,275	\$638	\$638
Class C or U Felony	\$604	\$157	\$761	\$381	\$381
Misdemeanor, Contempt, Extradition	\$368	\$61	\$429	\$215	\$215
FAPA & Support	\$604	\$32	\$636	\$318	\$318
Probation Violations	\$230	\$7	\$237	\$119	\$119
Habeas Corpus	\$2,415	\$573	\$2,988	\$1,494	\$1,494
Post Conviction Relief	\$2,726	\$2,447	\$5,173	\$2,587	\$2,587
Civil Commitment	\$368	\$58	\$426	\$213	\$213
Juvenile - Felony	\$853	\$676	\$1,529	\$765	\$765
Juvenile - Misdemeanor	\$360	\$131	\$491	\$246	\$246
Juvenile - Probation Violation	\$230	\$23	\$253	\$127	\$127
Juvenile - Dependency	\$830	\$151	\$981	\$491	\$491
Termination of Parental Rights	\$2,711	\$412	\$3,124	\$1,562	\$1,562

How OPDC Contribution Amounts Are Imposed



- The OPDC contribution amount is determined by comparing an applicant's financial resources and ability to pay to the maximum contribution amount at the beginning of the case
- **Actual** amounts imposed depend on applicant's financial resources
- Courts must consider an applicant's ability to pay when imposing fees.

ACP Verification Process

Verification specialists verify financial information

- ☑ Verify wages or unemployment benefits
- ☑ Check for any vehicles registered in the applicant or their spouse's name
- ☑ Determine the value of all vehicles
- ☑ Inquire into any real property the applicant or applicant's spouse may have recorded in their name(s)
- ☑ Obtain the real market value of any real property
- ☑ Current staff can only verify **40%** of cases

Once the verification process is complete, the verifier will initiate the process to withdraw appointed counsel or increase the contribution amount if verification reveals the applicant has additional financial resources.

ACP Verification Resources

Oregon Employment Department

Tax Returns

Recent Paystubs

Contacting Employers

DMV Oregon Driver Records

Real and Personal Property Records

Equifax Credit Reports

Financial Institutions

Social Security Administration

Attorney Fees Imposed At The End Of A Case

-
- Courts may impose a “reasonable attorney fee” at the end of the case
 - This amount is imposed as an addition to the fees imposed at the start of the case.
 - These fees are permitted regardless of case outcome

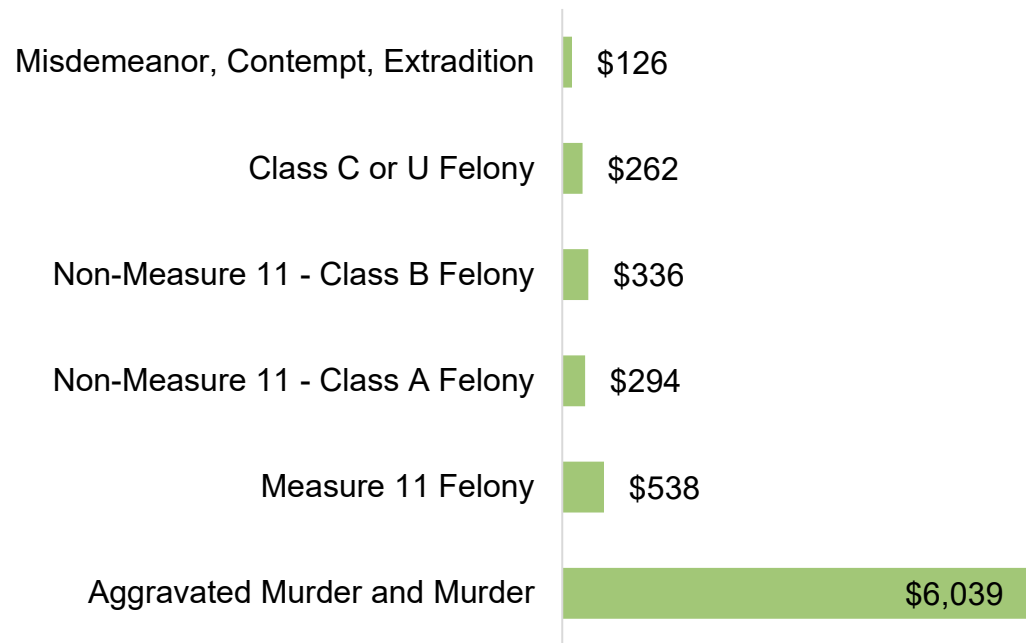
ORS 151.505(2) - OPDC Attorney Fees

OPDC provides to courts the **maximum attorney fees** people should pay towards the cost of their representation at the end of the case

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How OPDC Attorney Fees Are Imposed

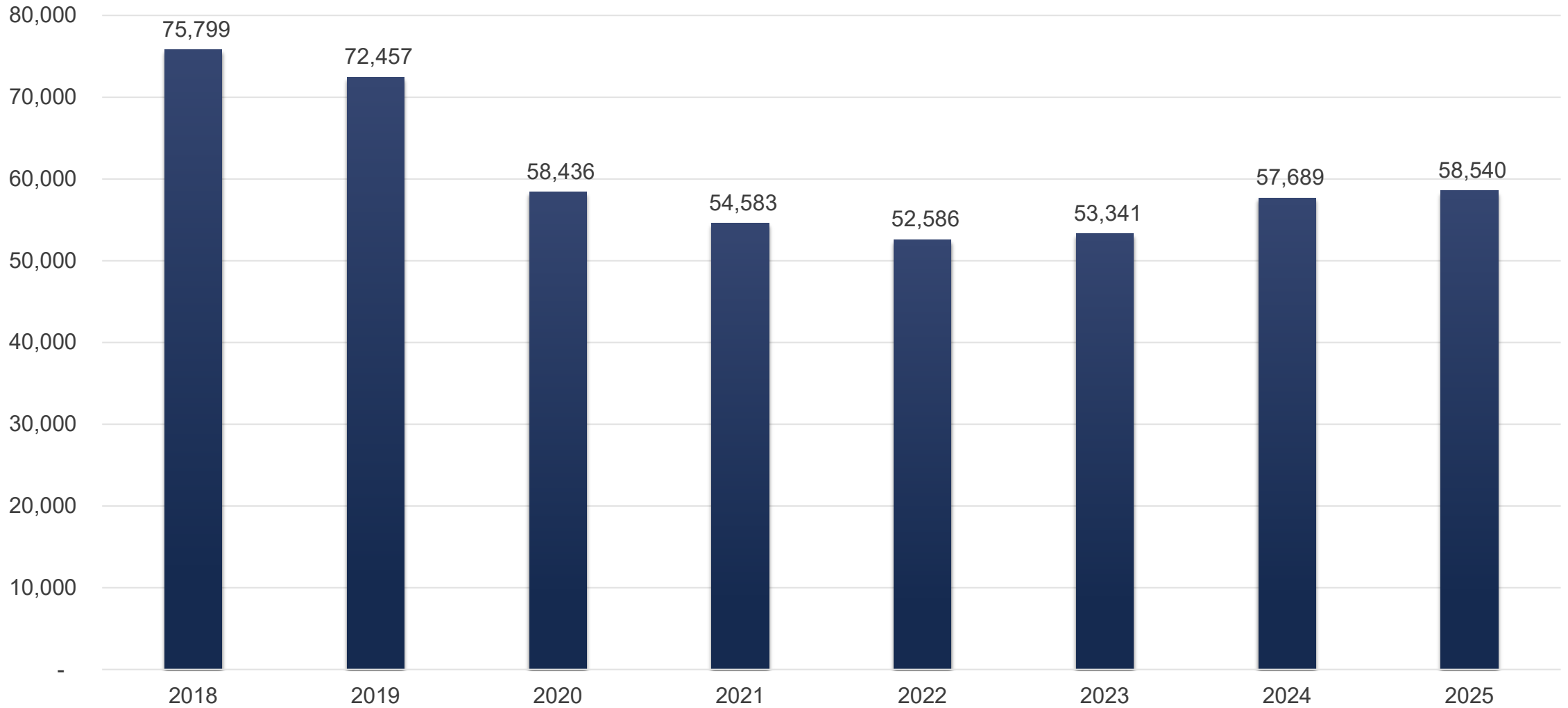
Average OPDC Attorney Fees Imposed



- OPDC attorney fees are imposed by comparing an applicant's available resources to the maximum attorney fee at the end of the case
- **Actual** amounts imposed depend on applicant's financial resources and ability to pay

Cases with Orders Appointing Counsel

84% of Individuals with Criminal Cases are Appointed Counsel



Fees and Revenue Distribution

Arraignment

OPDC Application Fee and
Contribution Amount

Public Defense Services Account
ORS 151.225

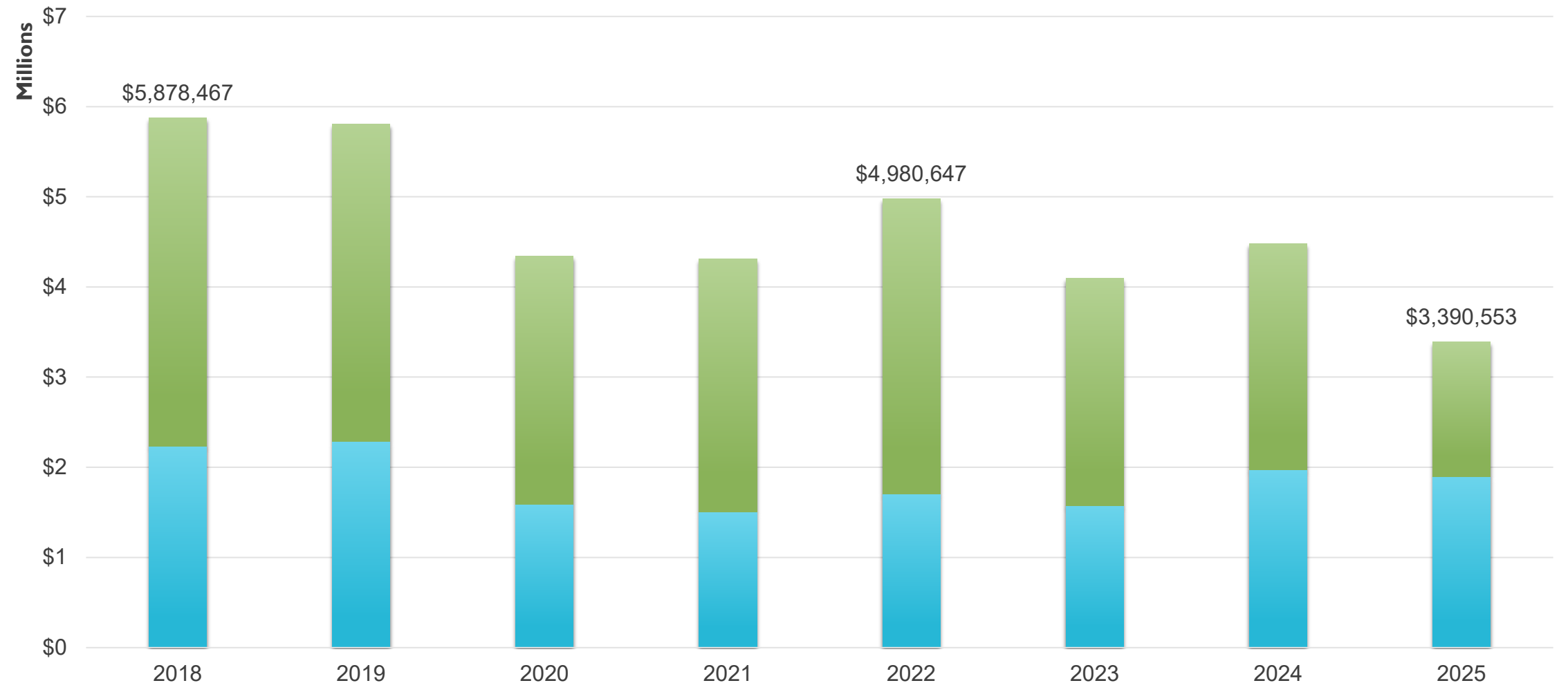
Sentencing

OPDC Attorney Recoupment
Fees

Criminal Fine Account
ORS 151.505(5)

Annual ACP Program Revenue

■ OPDC Application and Contribution Amount to PDS Account ■ OPDC Attorney Fees to CFA



Operational Challenges For Courts

- OJD has funding for 21.4 full-time equivalent (FTEs) "verification" positions across 36 courts for the ACP program, duties include:
 - Determine whether case type requires counsel at state expense
 - Assess whether a financial application is required
 - Facilitate the application process to establish financial eligibility
 - Recommend denial or appointment of counsel to the judge based upon financial eligibility
 - Provide the judge with recommendation regarding assessment of application and contribution fees
 - Verify application details as needed
- Only seven courts have at least one dedicated FTE, leaving **80% of courts** without a fully funded position for this work.

Possible Program Improvements

- **Simplify eligibility evaluation process:**
 - Shorten and increase use of digital application
 - Update and simplify the OPDC Private Attorney Fee Schedule
- **Streamline financial screening:**
 - Automate recommendation of eligibility for individuals receiving public assistance
 - Increase automation for all others
- **One-time fee:** Impose fees only at the beginning or end of the case. This would avoid confusion caused through multiple assessments and different revenue pathways.
- **Explore data share agreements and integrations with other agencies for verification of income and benefits received:** More information on next slide!

Recommended Solution For Verification

- **Secure data exchange** with Oregon Judicial Department, Department of Revenue, and Oregon Employment Department.
 - **Automate & Increase Verification:** Implement real-time verification of income and employment status for all applicants using tax, wage, and public benefits data. Current verification rate is only **40%** with existing staff and manual process.
 - **Improve Efficiency:** Cut processing time by 73%, reducing manual review from 15 minutes to fewer than 4 minutes per application – which would allow courts to **verify all applications**.
 - **Right Size Fees Imposed:** Expand ability to validate income and employment information and impose fees accordingly.
 - **Enhance Public Confidence:** Deliver transparent, consistent eligibility determinations statewide.
- Supports data-driven decision-making, equitable access to counsel, and operational efficiency.

Thank You

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