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February 18, 2026

Co-Chairs Senator Broadman and Representative Evans and Members of the Joint Public Safety Sub-Committee:

Thank you for the opportunity to submit written testimony regarding the work of Marion County in the statewide indigent defense counsel shortage and the recent effect of the Oregon Supreme Court opinion of *State v. Roberts*.

Over the last approximately three years, in my role as Marion County District Attorney, I have seen the real impact that the lack of defense counsel availability had on our criminal justice system and on our community's public safety. During this time, Marion County was served by two indigent defense providers with contracts via the Oregon Public Defense Commission (OPDC) - the Marion County Office of Public Defense and a consortium of private attorneys collectively known as the Marion County Association of Defense Counsel (MCAD). Our "crisis" took hold when one of those providers (the Public Defense Office) routinely met either their contractual MAC (Maximum Allowable Caseload) or asserted that they had reached their ethical MAC and thus could no longer take any appointments. Marion County was considered one of the original "crisis counties" and at our worst had nearly 1000 defendants facing criminal charges without available indigent defense counsel.<sup>1</sup>

In my view, Marion County was able to weather this storm for three primary reasons: 1. A Circuit Court bench led by a Presiding Judge who worked tirelessly to ensure we could reliably prioritize in-custody matters and meet legal obligations to those offenders, 2. The willingness of MCAD Attorneys to take additional cases to compensate for the inability of the public defender's office to meet their contractual obligations, and 3. The cooperation of my office to conduct special dockets and ancillary court appearances in order to responsibly move cases through the system.

Our (now former) Presiding Judge, Tracy Prall, daily monitored our arraignments and unrepresented, communicated with my office, our indigent defense providers as well as OPDC, and bore an administrative burden well beyond that of her typical role to assess lawyer

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<sup>1</sup> We referred to this as our "unrepresented list". And while we occasionally and briefly listen in-custody individuals to access the state Temporary Hourly Increase Program (THIP), our list was otherwise exclusively out-of-custody

availability and make appropriate appointments. It is because of her gracious and diligent dedication that Marion County never dismissed any case for lack of counsel.

Similarly, we were only able to keep our heads above water due to the willingness of MCAD attorneys to step up and fill the ever-evolving gap. These consortia lawyers routinely went above their MAC to ensure that criminal defendants received the advocacy guaranteed by the Constitution.

Further my office engaged in countless hours of special dockets and settlement conferences, coordination meetings, and creative problem solving to keep our numbers at manageable, albeit still unacceptable, levels. Without this extra time and effort, Marion County's crisis would have been much worse.

While we never dismissed cases or offered any "deals" because of this crisis, the impact of our high numbers was still evident. Recidivism was a continual concern as some unrepresented people committed additional crimes without court intervention. Law enforcement was frustrated by frequent contact with the same offenders. Victims went without justice for long periods of time. And our business community regularly communicated the belief that "nothing was happening" on cases of retail theft and other livability offenses. While it's impossible to accurately quantify these negative effects, I assure you it was felt by my community.

The good news is that after years of simply *surviving* the problem, Marion County now stands at ZERO unrepresented, a feat we reached just prior to the *Roberts* decision. This recent success is due in large part to significant legislative investments that created a state-run trial team and to OPDC's new executive director's leadership and clarified mission-driven commitment. We have worked with the State Trial Team to gradually chip away at our unrepresented numbers with unique processes previously unavailable and the improved contracts allowed our judges to appoint our public defender's office to any outstanding defendants.

While we are encouraged by these local developments, we must remain committed to a criminal justice system that prioritizes representation for all accused so we can meet our public safety obligations to everyone.

Thank You,

A handwritten signature in blue ink, appearing to read 'Paige E. Clarkson', with a stylized flourish at the end.

Paige E. Clarkson  
Marion County District Attorney