

PHILIPS CONSULTING GROUP

“It will increase the number of people facing life-changing consequences with an attorney in name only,” Shannon Wilson, the firm’s executive director, said in a statement. “And it will force qualified attorneys out of the workforce, making the crisis worse.”

(Attachment B, see also, Attachments C and D.)

In November, an Oregon court struck down the provision regarding larger caseloads as unconstitutional, KGW News reported on November 15, 2025:

A Clackamas County judge struck down a provision in a new contract between the state of Oregon and public defense firms Friday evening, in a significant rebuke to the state agency in charge of managing those contracts.

Public Defender of Marion County won a victory in its suit against the Oregon Public Defense Commission, with the judge ruling a provision in the state’s public defense contract is unconstitutional.

The lawsuit claimed the contract would function like a case quota system, and could limit the constitutional rights of low-income defendants who rely on public defenders.

Earlier this year, Governor Tina Kotek appointed a new leader for the Oregon Public Defense Commission, tasking him with fixing the state's backlog of underrepresented defendants.

The new plan allows attorneys who have extra capacity to take on more cases than the current maximum guidelines of 300 misdemeanor cases per year, and seeks to enforce contract requirements with public defense firms more strictly.

According to the latest numbers from the OPDC, Oregon does appear to finally be turning the corner on its crisis of unrepresented defendants, dipping below 3,000 — the lowest number since May 2024.

But Wilson and their attorneys argued that the state's contract, as currently constructed, would pressure attorneys to accept more cases than they could ethically handle.

(Attachment E.)

While the unrepresented crisis is, and has been, a problem for years now, the solution is not for Oregon to undo the progress made on movement towards lower, ABA recommended caseloads, and slightly higher pay for public defenders. The unrepresented crisis is not the fault or sole responsibility of public defense to solve. Crime is down nationally¹, including in Oregon, and has been trending down the past couple of years, yet prosecutors across the state continue to overcharge cases, which keeps the unrepresented numbers elevated. Oregon’s Supreme Court recognized this in its recent decision in *State v. Roberts*, and in its ruling the court put limits on how long cases can go without representation before they should be

¹ Crime trends in U.S. Cities, Year End 2025 Update, January 2026, By Ernesto Lopez, Council on Criminal Justice, and Bobby Boxerman, PhD, Regional Justice Information Service <https://counciloncj.org/crime-trends-in-u-s-cities-year-end-2025-update/>

PHILIPS CONSULTING GROUP

dismissed. (60 days for misdemeanors, 90 days for felonies.) (See also Attachment F for Oregon news report on crime trending down.)

And yet, Ken Sanchagrin has repeatedly misstated that there is a direct correlation between the unrepresented crisis and Oregon public defenders having lower caseloads. He states it in his filed declaration in the pending civil case: Shannon Wilson, Individually and as Executive Director of The Public Defender of Marion County v. Oregon Public Defense Commission, Marion County Case No. 25CV53416, filed on October 27, 2025:

Page 2 - DECLARATION OF KENNETH SANCHAGRIN IN SUPPORT OF
DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR PRELIMINARY
INJUNCTION

4. Since its inception, OPDC has employed several approaches to managing and measuring attorney workload. Prior to 2021, Oregon had a flat fee model by which public defense providers were paid per case on a credit system. This changed to a time procurement model in 2021 by which attorneys were held to a caseload cap of 115% of the 1973 National Advisory Committee Standards. In 2022, OPDC replaced this standard with a Maximum Attorney Caseload or "MAC."

5. *With the change from pay-per-case to the new contract model, caseloads of public defense providers quickly dropped, and there was a surge in unrepresented persons in Oregon.* Attached hereto as Exhibit 101 is a true and correct copy of the Senate Bill 337 (2023) Report "Review of Oregon's Public Defense Unrepresented Persons Crisis Team Plans" that I authored in my capacity as the Executive Director of the Oregon Criminal Justice Commission, and that details the unrepresented persons crisis. (Emphasis added.)

(Attachment G)

This is an oversimplification of the causation of the unrepresented crisis. An example that demonstrates this oversimplification would be Ken Sanchagrin's comments on the December 5, 2024 episode of National Public Radio's "All Things Considered" when he was the executive director of Oregon's Criminal Justice Commission:

WILSON: Sanchagrin says, since the new law went into effect, law enforcement officials in Oregon have filed 1,300 drug possession cases that likely wouldn't have existed otherwise.

(Attachment H)

The above comments were made during a discussion on the impact to the Oregon criminal justice system 3 months after the repeal of Measure 110, making possession of certain drugs a crime again, went into effect on September 1, 2024.

An additional 1,300 drug possession cases in December of 2024 would certainly have an impact on the overall unrepresented cases in Oregon.² The change in the law leading to more criminal cases, combined with the high turnover/lack of retention in public defender offices are contributing factors to the unrepresented crisis, not lower caseloads for public defenders.

Moreover, overcharging by state prosecutors is a contributing factor to the unrepresented crisis, borne out by at least one public defender office in Portland that has been consistently winning roughly 70% of their

² The total number of unrepresented individuals in Oregon on December 5, 2024 was 5,350.

PHILIPS CONSULTING GROUP

trials since January 2025.

More recently, in negotiating with roughly 70 private bar attorneys who take court-appointed cases at an hourly rate, the agency is requiring additional professional liability insurance, above and beyond what the Oregon State Bar requires for practicing attorneys. Given that OPDC has presumably vetted the attorneys, offered needed training, and the attorneys meet their strict standards to be qualified to handle certain types of cases, this requirement makes no sense.

Larger caseloads are unethical precisely because attorneys will inevitably miss something important on a case and it will impair their representation – which can lead to malpractice claims. This is an attempt by OPDC to force and/or allow attorneys to take on larger caseloads, while shifting any professional liability directly to the attorneys they are contracting with (and supervising, training and monitoring.) OPDC wants the attorneys to take on larger caseloads to help end the crisis, while also foisting all the costs and risks onto those same attorneys.

Additionally, OPDC refused to commit to paying invoices within 30 days or less, instead defending the ongoing pay schedule of 45 days or more. This, despite the fact that Oregon state agencies pay each other on a 30-day billing cycle. The 45-days or longer payments have been an ongoing issue for all individuals providing services to OPDC: attorneys, investigators, mitigators, experts, and other members of the defense teams.

From a written public comment submitted by James Comstock for the December 5, 2025, OPDC meeting:

We believe that OPDC has a statutory obligation to submit invoices to DAS for payment with sufficient anticipation to allow DAS to deposit the money into providers' accounts or to issue a check within the 45 day window from the date in which the invoice is submitted to OPDC via the Nintex system, and that OPDC's obligation does not simply cease when the agency sends the payment information to DAS.

We regret the need to use ORS 293.462 as an accountability tool to keep OPDC from issuing payment to providers with even greater delay. In a financial world that is based on 30 calendar day payments, and in a state where literally no other state agency regularly issues payments over 30 calendar days after invoice submission, we hope for time when issues regarding interest for payments over 45 days is moot - because providers are paid in 30 days or less.

After 6 years of hearing reasons, proposed solutions, and assurances from OPDC, providers are feeling that payment of invoices in under 30 days is simply not a priority for the agency, and the ability to hold OPDC accountable by charging interest after a faithful reckoning of 45 days is our last and only recourse to keep things from getting worse.

We again ask OPDC to obtain a legal opinion from DOJ on the application of ORS 293.462 in order to settle this pernicious point of contention between OPDC staff and providers. More importantly, we ask OPDC to pay provider invoices in 30 calendar days or less.

(Attachment I)

PHILIPS CONSULTING GROUP

Moreover, the current 7-point plan proposed by Ken Sanchagrin focuses almost entirely on ways to increase caseloads for public defenders, in direct opposition to the findings and recommendations in the Sixth Amendment Center Report. The 7-point plan does not factor in implementing higher pay for attorneys or investigators - OPDC reduced the higher rate of pay for unrepresented cases in the summer of 2025, which will not help with retention of attorneys and investigators.

Currently, the hourly rate of pay of attorneys taking court-appointed cases is \$155 an hour. Compare this to the billing rate of Department of Justice attorneys, who bill at a rate of \$352 an hour, as approved by the Oregon Legislature for 2025-2027. (See Attachment J.)

Higher caseloads, still no pay parity, and an interim executive director who has chosen to try to force these unethical caseloads on public defender offices, only to lose in court after a judge ruled that provision unconstitutional. While injunctive relief was granted, the case is still going to trial, later this week, February 19-20, 2025, in Clackamas County Circuit Court. (A second public defender office, Southwestern Oregon Public Defender Services, which serves Coos County, has joined the Public Defender of Marion County in the case.)

In a response filed in that case, Ken Sanchagrin, through his and OPDC's attorneys, wrote the following:

There is an unrepresented persons crisis in Oregon. This is a reality upon which the parties seem to agree. But while Plaintiff is concerned with their contract, the Oregon Public Defense Commission ("OPDC") is concerned with addressing the crisis across the entire state, and answer to the needs of the judiciary, the legislature, and the growing number of persons charged with crimes or otherwise facing loss of liberty without access to qualified defense attorneys necessary to represent them in their cases.³

This is concerning, given the first priority of the executive director of OPDC should *not* be the judiciary or the legislature. The first priority of the executive director should be providing constitutionally adequate criminal defense representation to everyone in Oregon who qualifies for court-appointed counsel. This means not taking public defense backwards by insisting on unethically high caseloads.

The executive director of OPDC should be doing everything in their power to make it easier, not harder, for qualified defense attorneys to fulfil their ethical obligations to clients, and provide the excellent representation each individual deserves. Lower caseloads and higher pay, paying all public defense service providers within 30 days or less, this is the bare minimum for a functioning state public defense agency, and yet, the interim executive director seems determined to not meet this bare minimum, and instead, return Oregon public defense to unsustainable and unethically high caseloads.

With the new Supreme Court ruling in Roberts that now puts some of the responsibility for the unrepresented crisis on Oregon state court prosecutors, the unrepresented numbers will start going down in the next 3, 6, 9, and 12 months. All without forcing higher caseloads onto public defenders.

Oregon was the last state in the United States to implement unanimous juries for felony trials. Forcing public defenders to take on higher caseloads would be moving backwards in a manner akin to reversing nonunanimous jury verdicts. Oregonians deserve better.

³ DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION, Shannon Wilson v. Oregon Public Defense Commission, Marion County Case No. 25CV53416, filed 10/27/2025.

PHILIPS CONSULTING GROUP

Oregon public defense deserves an executive director who has worked directly in the court system, knows the issues facing trial attorneys on a daily basis, and is willing to work towards a public defense system that values every person facing criminal charges, and values every person working to defend the constitutional rights of the accused as they make their way through the criminal justice system. For all of these reasons, I urge you not to confirm Ken Sanchagrin as executive director of OPDC.

Sincerely,

/s/Rachel Philips

Rachel Philips

Attorney

Philips Consulting Group

ATTACHMENT

A

OPB article, December 12, 2018

Oregon's Public Defense System 'Is Not Constitutional' Report Finds



By [Conrad Wilson](#) (OPB)

Portland, Ore. Dec. 12, 2018 2:13 p.m.

UPDATE (Thursday, Dec. 13, 3:17 p.m. PT) — State public defense systems are supposed to provide effective counsel for indigent clients — a requirement of the U.S. Constitution. But a draft report obtained by OPB concludes that Oregon's system is so bureaucratic and structurally flawed that it can't guarantee clients are getting the defense they're owed.

The report was completed by the Sixth Amendment Center, a nonpartisan, nonprofit organization, which studies how legal systems across the country are complying with the constitutional requirement.

This week, the report's authors will share the findings with lawmakers and other state officials in Salem.

"I think there are serious problems in the way the constitutional right to counsel is provided within Oregon," said David Carroll, executive director of the Sixth Amendment Center, who authored the report. "I believe it's time to re-evaluate how services are provided and there's a need to do a lot of legislative changes."

The Legislature authorized the money for the report, which cost \$193,990. Carroll's group got to work in March, studying nine counties in depth that ranged from Harney to Multnomah.

The findings are bleak. The state lacks oversight of attorneys with whom it contracts to provide public defense services. And the way it pays attorneys encourages them to deal with cases as quickly as possible.

"This compensation plan creates an incentive for attorneys to handle as many cases as possible and to do so as quickly as possible, rather than focusing on their ethical duty of achieving the client's case-related goals," the draft report states.

The Constitution requires a defendant who cannot afford to hire their own attorney be provided counsel at public expense.

"Yet the state of Oregon has no mechanism to know whether it's fulfilling its obligation to provide counsel to the poor who face incarceration in the justice and municipal courts," the draft report states.

Lane Borg, executive director of the state's Office of Public Defense Services, sought financing from the Legislature to commission the report.

"It confirms what we suspected and gives us specifics, which is: The system you have is not constitutional," he said. "And what I mean by that is because the funding model creates an economic conflict between the client and the lawyer that would violate the rules of professional conduct."

Borg is a former public defender who also spent nearly a decade running the Metropolitan Public Defenders, a nonprofit that operates in Multnomah and Washington counties.

"The sole use of independent contracts at the trial level, is making it overly cumbersome to do quality control," he said.

The report recommends making public defenders state employees, or moving to an hourly pay system and away from the flat case rate model the state's been using for more than 30 years.

Oregon lawmakers said Thursday there will be bills in next month's session to address the report's findings, but with the draft report just coming out, they didn't have more details about what those bills might look like.

"We will be addressing issues with the public defense system in this session," Democratic House Majority Leader Jennifer Williamson said in an interview Thursday.

Williamson said lawmakers have not crunched the numbers, but acknowledged the findings as problematic and "unconstitutional."

"Depending on what happens with this report we may be forced to address it in the sessions," Williamson said. "Rearranging the public defense system in the state on its own timeline would take awhile."

The American Civil Liberties Union has sued a number of states over its funding of public defendants: Michigan in 2007, Washington in 2011, Louisiana in 2016, Missouri and Nevada last year, and Idaho this year.

In a statement Thursday, the ACLU of Oregon didn't rule litigation out as a means of addressing the state's public defense system.

"We are grateful to the advocates and legislators who took action to learn more about how our system is treating the poor in Oregon," said Sarah Armstrong, a spokeswoman for the ACLU. "The results are alarming. We support a legislative fix to ensure that all people in Oregon are treated fairly. We also will not rule out litigation."

Williamson said she suspects in one way or another the ACLU will be involved in the process.

"If there is a lawsuit brought by a defendant or any other interested party, I think it changes the timeline potential on getting a new system up and running," Williamson said. "If we are under pressure from the courts to do something faster then that changes the whole calculus."

Carroll presented his findings Thursday to a committee that includes representatives for Gov. Kate Brown and Attorney General Ellen Rosenblum along with district attorneys, state lawmakers, law enforcement officers, judges and public defenders.

On Friday, the draft report will be presented before the joint judiciary committee.

Editor's note: This article was updated Thursday with comments from the ACLU and state lawmakers.

Link to article online: <https://www.opb.org/news/article/public-defense-oregon-unconstitutional/>

ATTACHMENT

B

OregonLive Article October 1, 2025

Marion County public defenders sue Oregon commission over case quotas

- Updated: Oct. 09, 2025, 1:00 p.m.
- |Published: Oct. 01, 2025, 4:43 p.m.



Marion County Circuit Courthouse in Salem, Oregon. The Public Defender of Marion County sued the commission in Marion County Circuit Court. Maxine Bernstein | Staff

By [Noelle Crombie | The Oregonian/OregonLive](#)

The largest nonprofit provider of public defense services in Marion County this week sued the [Oregon Public Defense Commission](#) over a new two-year state contract for [public defenders](#), arguing the agreement imposes quotas on lawyers that make it [difficult to do their job](#).

The Public Defender of Marion County sued the commission in Marion County Circuit Court.

The commission declined to respond to questions about the contract, citing the litigation.

The commission manages Oregon's public defense system, which has failed to provide lawyers for every criminal defendant eligible for one. As of Wednesday, a dashboard maintained by the Oregon Judicial Department showed an estimated 3,300 defendants lack an attorney.

The commission has seen leadership turnover; earlier this year, Gov. Tina Kotek tapped Ken Sanchagrin as interim executive director. Sanchagrin previously served as director of the Oregon Criminal Justice Commission, which analyzes crime and justice system data for policymakers.

The state relies on a patchwork system to provide public defense to people who cannot afford an attorney. In addition to directly employing public defenders, it also contracts with firms like Public Defender of Marion County.

Public defender workloads have long been a subject of contention.

The new contract spells out the maximum caseload, by type, attorneys can be assigned in a 12-month period.

According to the firm, the new contract eliminates funding for four of its lawyers and one supervisor. A statement issued by the firm also said the contract requires public defenders with full caseloads to take on additional cases and would especially burden lawyers with misdemeanor caseloads and those who handle less serious felonies.

"It will increase the number of people facing life-changing consequences with an attorney in name only," Shannon Wilson, the firm's executive director, said in a statement. "And it will force qualified attorneys out of the workforce, making the crisis worse."



[Noelle Crombie](#)

Investigative and enterprise reporter specializing in watchdog journalism focused on state and county government and the big-picture discussions that shape Oregon's justice system and drug policy. She's reported deeply on the state's prisons, the juvenile justice

system and the politics surrounding the state's public defender crisis. She may be reached at 503-276-7184.

ncrombie@oregonian.com

Link to online article: <https://www.oregonlive.com/politics/2025/10/marion-county-public-defenders-sue-oregon-commission-over-case-quotas.html>

ATTACHMENT

C

KGW News Story October 15, 2025

Marion County public defender office sues Oregon agency, fighting attorney caseload 'quota system'

The plaintiffs hope that the Oregon Supreme Court will mandate a caseload standard which won't threaten defense attorneys' ethical obligations to their clients.

Author: Jamie Parfitt

Published: 5:53 PM PDT October 15, 2025

Updated: 5:53 PM PDT October 15, 2025

SALEM, Ore. — A nonprofit public defense firm [in Marion County](#) is suing the Oregon agency in charge of indigent defense, alleging that the state's new contract for the attorneys it oversees violates state law and constitutional requirements.

Public Defender of Marion County filed its lawsuit against the Oregon Public Defense Commission at the end of September, also filing a motion requesting a preliminary injunction in order to halt enforcement of the contract.

In April, Gov. Tina Kotek [fired OPDC's executive director](#). In her place, Kotek installed Ken Sanchagrin, then-executive director of the Oregon Criminal Justice Commission, with the clear expectation that Sanchagrin would come up with a plan to reduce — and eventually eliminate — Oregon's backlog of unrepresented criminal defendants.

Since the pandemic, the state of Oregon has struggled to find public defenders for every criminal defendant, particularly in a handful of "crisis counties": Coos, Douglas, Jackson, Marion, Multnomah and Washington.

[As of this week](#), there were more than 3,000 defendants without legal representation in Oregon, most of them out of custody. However, that does represent a reduction from [this spring](#), when there were upwards of 4,000 on the unrepresented list.

In June, Sanchagrin [delivered his 12-month plan](#) for addressing the unrepresented crisis. But much of his plan hinged on a new contract between the OPDC and public defense firms throughout the state, the details of which were still being finalized at the time. That new contract's term began Oct. 1.

Public Defender of Marion County and its executive director, Shannon Wilson, refused to sign the contract and instead filed a complaint. It argues that attorneys under the contract would be forced to take on more cases than they could handle while still meeting their ethical obligations, which are likewise a requirement of the contract.

A floor, not a ceiling

Public defenders in Oregon have complained that high caseloads, low pay and the increasing complexity of criminal cases have contributed to attorney burnout and turnover, which helped create the unrepresented crisis to begin with.

Wilson told KGW that the contract OPDC offered their firm in particular would force them to cut workers at a time when they are already unable to take on enough cases. Marion County is one of Oregon's unrepresented crisis counties.

"In that contract that was proposed, they had already removed five positions from that contract," Wilson said. "So already their intention was to remove public defenders from Marion County."

While the cuts are a problem for Wilson's firm, they aren't the problem at the heart of the lawsuit. That has to do with the number of cases each public defender is expected to take.

Since 2021, Oregon has used the maximum attorney caseload standard, or MAC, for public defenders. It was adopted as something of a stopgap, but the idea was to begin moving away from a standard that financially incentivized attorneys to take as many cases as possible.

As the name implies, the MAC is a framework for the maximum number of cases a public defender should take on, with cases weighted by type, while still meeting their ethical obligations for how much time and effort each defendant should receive.

Criminal attorneys who've spoken with KGW on both sides of the courtroom have been ambivalent about the MAC, with most describing it as imperfect at best. But under the new contract, Wilson claims, the state has subtly changed what the MAC means. While it remains the standard, it's moved from a ceiling to a floor.

"It's a quota system," said Wilson. "It's a mandated caseload that's imposed on every lawyer. And in this quota system, the contracts weren't necessarily based in anything ... it wasn't based in the realities of the work."

According to Wilson, the new contract imagines that each attorney begins without any clients, when most are coming in with a full caseload. Regardless, they said, the contract requires that an attorney take on a certain number of cases within the year — turning the MAC into "a sheer number standard."

"Essentially, each year a public defender with an already full caseload is required to pick up an additional equivalent of 300 misdemeanors, mandated," Wilson said.

As the director of a public defender office, Wilson said, the contract removes their ability to effectively manage workloads among attorneys. Instead, each attorney would need to take on a MAC-load of cases, regardless of the particulars of their cases or their personal lives.

All the way to the top

Wilson is represented in the lawsuit by Josh Krumholz, a partner at the law firm Holland & Knight.

"We're asking the court to render a ruling that a contract that requires this number of cases that's set at the MAC level is unenforceable as a matter of law, because it violates the Constitution and because it requires lawyers to handle more cases than they're capable of handling, rendering it a violation of our own ethical rules," Krumholz explained.

Under the MAC standard as it was originally imagined, if a public defender took only misdemeanor cases, they'd be expected to take a maximum of 300 cases a year. It's primarily newer attorneys taking on misdemeanors — and particularly those [at nonprofit firms like Wilson's](#) — as they don't yet have the experience for more heavily weighted felony cases.

"A good example of what public defenders are forced to do under this contract is, on average, they would only have allotted to them 5.25 hours to handle a misdemeanor case," Krumholz continued. "They need to have the ability to investigate the claims, interview witnesses, meet their client and interview their client, look at discovery, look at body cams. The five hours runs out in the blink of an eye."

The consequence is that public defenders are all but forced to take whatever plea deal prosecutors offer, Krumholz said, without being able to evaluate whether it's a good deal for each particular client.

Krumholz isn't shy about the ultimate goal of the lawsuit; he and Wilson aren't simply trying to squeeze a better contract out of OPDC. They're pushing for a ruling that would force the state to use a different caseload standard — one more firmly rooted in ethical considerations — which would replace the MAC entirely.

While ambitious, this isn't outside the realm of possibility. Under its previous director, OPDC adopted a caseload standard of the kind that public defenders like Wilson have been demanding — the state just isn't using it.

Up in Washington, the state supreme court has been [leading an effort](#) to create a more ethical caseload standard for public defenders. The new model takes effect in January, [albeit in a soft launch](#). It will be a decade before the new Washington caseload standards are fully in effect.

Oregon's own MAC was closely modeled after Washington's prior caseload standard. As the Evergreen State leaves its old way of doing things behind — at the prompting of the courts — Wilson and Krumholz hope to be the catalyst for a similar transformation in Oregon.

"It is the state supreme court that ultimately has the responsibility of making sure that justice is applied equally and fairly," Krumholz said. "It is the state supreme court that is responsible for making sure that the rules of ethics are being followed. The legislature doesn't decide either one of those things.

"So yes, it's our belief that the legal community as a whole, and the supreme court in particular, has a responsibility of determining what constitutes constitutional and ethical behavior in their courts."

Competing pressures on the state

KGW reached out to the OPDC to request an interview. An agency spokesperson said that they cannot comment on pending litigation.

However, some aspects of the state's motivations are clear. Particularly since its change of leadership, the OPDC has been tasked with bending the curve on unrepresented defendants. If it were to adopt a caseload that allows attorneys to take any fewer cases, the unrepresented list could grow longer rather than shorter.

At the end of [the 2025 legislative session](#), the OPDC received a service level boost [in its budget](#) of just under 10% — a step forward, but not enough to transform public defense in Oregon. Without more funding to expand the number of public defenders, the OPDC is still leaning on existing attorneys to make up the difference.

The new OPDC contract does offer some concessions to public defenders. First-year attorneys can take a reduced caseload while being counted as a full MAC, and some cases could qualify for extra weight beyond the usual MAC. Meanwhile, the state won't step in unless an attorney falls below 83% of their caseload, which is considered the "anticipated" MAC.

But for Public Defender of Marion County, that's precisely what makes this contract a quota system.

For the time being, attorneys at the Marion County nonprofit firm are still working their cases from the previous contract, but they are not being assigned any new cases. Wilson said that they were in talks with OPDC about how to proceed, but those have yet to produce an agreement.

A first hearing on the lawsuit, and in particular about the motion for a preliminary injunction, is scheduled for Friday, Nov. 14. It will be heard by a judge in Clackamas County Circuit Court, Judge Michael Wetzel, due to potential conflicts of interest in Marion County court.

Link to online story: <https://www.kgw.com/article/news/local/the-story/oregon-public-defender-marion-county-lawsuit-state-opdc-contract-caseload/283-31ef3b65-78b5-40b0-974b-6c9c148fb9fb>

ATTACHMENT

D

Salem Reporter Article, October 7, 2025

Marion County lawyers sue state over public defense workloads

By [Madeleine Moore](#) October 7, 2025

The Marion County Courthouse in downtown Salem. (ALAN COHEN/Salem Reporter)

Local attorneys are fighting against what they describe as new state work quotas that attempt to tackle the state's ongoing crisis in legal representation by requiring public defenders to represent more clients.

The executive director of Marion County's public defense law firm filed a lawsuit Tuesday, Sept. 30, in Marion County Circuit Court against the Oregon Public Defense Commission claiming it recently added minimum caseload requirements to the firm's contract with the state.

Tiffany Woods, a spokeswoman for the commission, disputed that, saying the new contract has the same expected workload for attorneys as prior contracts and allows for variation in attorney workload.

The new contracts, which took effect Oct. 1, expect Marion County public defenders to handle the equivalent of 300 misdemeanor cases or 138 serious felonies, like kidnapping or first-degree assault, per year, according to the complaint filed by Shannon Wilson, executive director of the Public Defender of Marion County. That's the firm of 20 attorneys providing public defenders for people in Marion County facing criminal charges who generally can't afford a lawyer.

The contract gives more serious charges more weight to account for the additional time needed. First-year attorneys would be eligible for a reduced caseload of 200 misdemeanors.

Public defenders say the quotas could lead to serious consequences for people accused of crimes, including unnecessary sentences, increased time in jail and wrongful convictions, according to Wilson.

If attorneys don't meet contract work requirements, the commission could reduce contract funding or cut full time positions, according to Joshua Krumholz, attorney for the Public Defender of Marion County.

Wilson said that would increase attorney workloads to unsustainable levels and pressure them to settle for unfair outcomes in order to meet quotas.

“Not only are these quota terms in the contract unethical, and not only do they directly harm our community and and really threaten the foundations of our legal system, but they also are going to result in attorney attrition and driving public defenders away from the workforce,” Wilson said.

The firm’s contract with the commission expired Sept. 30. The commission is responsible for providing and funding public defense representation around Oregon. The previous contract showed the commission paid from \$213,085 to \$246,378 per attorney per year.

Woods initially declined to answer questions about the new contract or the efforts the commission made to discuss alternatives with Marion County’s public defenders. In a statement following publication, she disputed that the new contract contained “quotas” or that the commission now expected lawyers to work more cases.

The requirements are part of contracts offered to all public defenders in Oregon, not just Marion County, Woods said.

The caseload requirements are part of a state effort to solve a [yearslong public defense crisis](#).

The statewide shortage of public defenders left thousands of people accused of crimes around the state without an attorney at the start of 2025, violating their constitutional right to representation, according to [reporting by OPB](#).

As of Tuesday, Marion County has around 236 people facing criminal charges without legal representation, according to an Oregon Judicial Department [dashboard](#).

Table 4. Unrepresented Individuals Year Over Year Change (Marion)²⁸

Category	5/14/2024	5/15/2025
Out-of-Custody	471	454
In-Custody	20	9
Probation Vio	98	119
Non-Criminal	10	7
Total	599	589

The number of people without legal representation in Marion County has decreased slightly, according to state data from May, as included in a commission plan to solve the public defense crisis.

“Rather than dedicating real resources to that problem, or engaging in a difficult but long overdue reevaluation of the state’s prosecutorial practices, penal code and diversionary programming strategies, the state’s short-sighted solution is to foist the problem onto already overworked public defenders, demanding even more of them,” the suit argues.

The commission presented the new contract with quotas Sept. 12, the lawsuit claims.

The firm’s previous contract with the Oregon Public Defense Commission operated under a maximum caseload of 300 misdemeanor cases per year. Woods said while the new contract allows for variation in workload, “no provider is expected to exceed those case limits.”

The new contract “creates the same improper incentives found in a traditional pay-per-case system by encouraging public defenders to move their cases quickly and with minimal effort in order to try to meet an unsustainable caseload threshold,” the lawsuit claims.

The new contract would also cut funding for four attorneys and a supervisor, according to a letter Wilson sent to the public defense firm’s board of directors.

The lawsuit asks a judge to replace the standards with national ones allowing attorneys to spend more time with each client and ensure they’re following ethical guidelines.

Wilson’s team of around 20 attorneys have been relying on the national standards for caseloads. Those standards were developed by the [National Defense Workload Study](#) in 2023 and recommend spending almost triple the amount of time on cases as the quotas demanded by the Public Defense Commission.

The commission publicly adopted the national standards in 2024, but does not apply them to its contracts with public defenders.

Earlier this year, Gov. Tina Kotek asked the commission to come up with a plan to solve the public defense crisis, [documents](#) online show.

The commission created a 12-month plan in June, focused on six “crisis” counties especially suffering from lack of legal representation, including Marion County.

In its plan, the commission said it would enforce maximum caseloads by requiring attorneys to meet 85% of the maximum, which is 255 misdemeanor cases per year. If attorneys don’t meet the mark, it could lead to reductions in contract funding or full time positions at their firm.

Days after receiving the new contract last month, Wilson met with the commission and requested either signing an hourly contract or one without the quota, according to a declaration. The commission rejected both options, according to the lawsuit.

For a misdemeanor case, the national standards require an attorney to spend an average of close to 14 hours, according to the lawsuit. Meanwhile, the contract quotas would shrink that number to just over five hours.

“Everyone in this county at least understands that on misdemeanor cases ... you go to the annex for the initial hearing, two hearings, and maybe get to meet with your client briefly, just the initial meeting, and with that travel time and those first appearances, you’re at five hours,” Wilson said. “You haven’t even started your representation, really, at that point, you’re still receiving evidence, and so it’s really out of touch with the work.”

MAC Case Type	Average number of hours per case under MAC Standards	NPDWS Case Type	Average number of hours under the National Standards
Murder	264	Felony-High-Murder	248
Jessica Law	264	Felony-High-Sex	167
Ballot Measure 11	35	Felony-High-Other	99
Major (A/B) felonies	11	Felony-Mid	57
Minor (C) felonies	9.5	Felony-Low	35
Misdemeanors	5.3	Misdemeanor-Low	13.8
Probation violation	1.9	Probation/Parole Violations	13.5

Hours per case the Oregon Public Defense Commission is asking for compared to national standards for hours spent per case. The table is from the Public Defender of Marion County’s lawsuit against the commission.

With shorter time requirements, attorneys can’t fairly or accurately challenge charges against their clients or take weaker cases to trial, according to Krumholz.

“A minor felony, which, with collateral consequences, could mean that a person loses their job, loses the ability to adopt or foster children. I think there’s over 1,000 collateral consequences for somebody who’s convicted of a misdemeanor, let alone a minor felony. You’ve got nine and a half hours to get it done,” Krumholz said.

The contract would require attorneys handling the highest level felonies to reach a resolution in 11 hours. Those would include people accused of first-degree manslaughter, rape or arson.

Wilson and the firm “are ready and willing” to enter a new contract with the commission if quota standards are removed, Krumholz said.

“Ultimately, at the center of all of this is our deep commitment to protecting our clients, and that’s something we’re really proud of that we center here in our office,” Wilson said. “I think it’s something that public defenders carry in their hearts, but this type of quota system asks them to abandon that and abandon their ethics just for a contract.”

This article was updated on Friday, Oct. 10, to incorporate information from the Oregon Public Defense Commission.

Correction: This article misstated the equivalent number of serious felonies lawyers would be expected to work under the plan, and the number of currently unrepresented people in Marion County. It also misstated where the state applies national lawyer representation standards. Salem Reporter apologizes for the errors.

Contact reporter Madeleine Moore: madeleine@salemreporter.com.



Madeleine Moore

Madeleine Moore joined Salem Reporter in 2024 and reports on a variety of topics including public safety, addiction, treatment and the criminal justice system. She came to Salem after graduating from the University of Oregon in June 2024 with a bachelor’s degree in journalism.

ATTACHMENT

E

KGW News story, November 14, 2025

Judge rules in favor of public defense firm suing Oregon to fight the state's caseloads

Public Defender of Marion County sued the Oregon Public Defense Commission, arguing a provision in their new contract was unconstitutional.

Author: Jake Holter

Published: 7:57 PM PST November 14, 2025

Updated: 7:57 PM PST November 14, 2025

OREGON CITY, Ore. — A Clackamas County judge struck down a provision in a new contract between the state of Oregon and public defense firms Friday evening, in a significant rebuke to the state agency [in charge of managing those contracts](#).

Public Defender of Marion County won a victory in its suit against the Oregon Public Defense Commission, with the judge ruling a provision in the state's public defense contract is unconstitutional.

“It means that (public defenders) get to continue to provide client-centered representation,” said Shannon Wilson, executive director of PDMC.

Wilson said their firm couldn't sign the new contract the OPDC proposed, and instead filed a complaint to see it tossed out.

“It asked us to just ignore our current clients and to neglect their needs and agree to blindly take on an additional however many cases based on your qualifications per month,” Wilson said. “I couldn't agree to that because that would essentially ask us to be negligent.”

The lawsuit claimed the contract would function like a case quota system, and could limit the constitutional rights of low-income defendants who rely on public defenders.

Earlier this year, Governor Tina Kotek [appointed a new leader](#) for the Oregon Public Defense Commission, tasking him with fixing the state's [backlog of underrepresented defendants](#).

The new plan allows attorneys who have extra capacity to take on more cases than the current maximum guidelines of 300 misdemeanor cases per year, and seeks to enforce contract requirements with public defense firms more strictly.

According to the latest numbers from the OPDC, Oregon does appear to finally be turning the corner on its crisis of unrepresented defendants, dipping below 3,000 — the lowest number since May 2024.

But Wilson and their attorneys argued that the state's contract, as currently constructed, would pressure attorneys to accept more cases than they could ethically handle.

“What this became to us is the state forcing public defenders to make a choice,” said Wilson’s attorney Josh Krumholz. “Either keep a job, put food on the table or stand up for your ethical obligations.”

Friday, a judge in Clackamas County assigned to the case ruled that a provision of the contract — one that could penalize a public defense firm for exceeding its ethical caseload — violates the Oregon Constitution.

The court voided and removed that provision.

“The court fulfilled its essential responsibility, to make sure that our criminal justice system, particularly as it applies to indigent defendants, is just, fair, ethical, and constitutional,” Krumholz said. “It was a really good day for this state.”

The state tried to argue that Wilson and PDMC did not have standing because they had not signed the state's contract, but the judge did not agree with that assessment.

Wilson said they now plan to sign the new contract. The OPDC declined to comment.

While presiding Judge Michael Wetzel ruled from the bench in the case, his order granting a preliminary injunction — which will provide further details about the ruling — has not yet been written and filed.

KGW digital producer Jamie Parfitt contributed to this story.

Link to online story with video: <https://www.kgw.com/article/news/local/judge-rules-marion-county-public-defender-contract-unconstitutional-opdc/283-cce4d7cb-424d-4669-9f25-bf9f66c54e12>

ATTACHMENT

F

KOIN News report on crime rate is down, November 11, 2025

Portland

Report shows violent crime was already going down in Portland and other cities

by: Amanda Rhoades

Posted: Nov 11, 2025 / 03:01 PM PST

Updated: Nov 11, 2025 / 03:10 PM PST

PORTLAND, Ore. (**KOIN**) — Despite the rhetoric used by some media outlets and politicians, a new report shows that violent crime is down in the United States as well as in a number of large cities.

Violent crime had already been declining in each of the cities where President Donald Trump deployed National Guard troops: Portland, Memphis, Washington, D.C., Chicago, and Los Angeles. It's also down across the board in many of the cities he has threatened to send troops to, including New Orleans, Oakland, San Francisco and St. Louis. In New York City and Baltimore, violent crime is still largely down except in one or two areas.

The **report** was released Nov. 3 by the Major Cities Chiefs Association, which is made up of police from the largest states in the U.S. and Canada. They looked at homicide, rape, robbery and aggravated assault across 67 cities in the U.S. and 9 in Canada between Jan. 1 and Sept. 30, and compared those totals to data from the previous year.

They found that overall, violent crime in the U.S. has gone down compared to the previous year. This includes the totals for homicide, rape, robbery and aggravated assault.

In 2025, from Jan. 1 to Sept. 30 there were 4,143 homicides reported compared with 5,126 in the previous year. There were 20,407 incidents of rape reported during the same period in 2025, down from 21,728 in 2024.

According to the report, from Jan. 1 to Sept. 30, there were 66,501 incidents of robbery reported this year, while during the same period in 2024, there were 81,860. Finally, there were 194,804 reports of aggravated assault this year compared with 216,466 in 2024.

In Portland specifically, there were 34 reports of homicide reported this year compared with 56 reported in 2024. The city also received 253 reports of rape this year, and 274 during the same period in 2024. Robbery calls were down to 756 in 2025 compared with 828 in 2024. Incidents of aggravated assault were also down, to 2,299 in 2025 from 2,354 in 2024. President Trump tried to deploy troops, but **was blocked** by a federal judge.

Police in Memphis also saw violent crime go down across the board, from 202 homicide reports in 2024 to 164 in 2025. There were 260 rapes reported in 2024, and in 2025 that figure decreased to 199. Robberies went from 1,609 reports in 2024 to 1,259 in 2025. Aggravated assaults decreased from 5,796 in 2024 to 4,718 in 2025. Even so, the president **deployed troops** in September.

Washington, DC Metropolitan Police reported similar declines, from 139 homicides in 2024 to 109 in 2025; 121 reports of rape in 2024 to 71 in 2025; 802 robberies in 2024 to 802 in 2025; and 1,595 aggravated assaults in 2024 to 1,053 in 2025. Still, the president **deployed troops** in August.

Chicago police saw homicides drop from 450 in 2024 to 323 in 2025. They saw reports of rape decline from 1,501 in 2024 to 1,485 in 2025, and robberies drop from 6,904 in 2024 to 4,572 in 2025. Aggravated assault also went down from 14,061 in 2024 to 11,469 in 2025. Even so, the president **took to Truth Social late Monday** to call for troops to be sent to the Windy City to address violent crime. In October, a preliminary ruling issued by a federal appeals court temporarily blocked his previous effort to deploy the National Guard.

Los Angeles has also seen decreases in violent crime, from 229 reports of homicide in 2024 to 177 in 2025. In 2024, the city received 1,136 reports of rape. In 2025, that number dropped to 940. Robberies decreased from 6,536 in 2024 to 5,486 in 2025, and aggravated assaults declined from 13,691 in 2024 to 11,590 in 2025. The president initially sent troops in June in an effort to quell protests, though since then they've been called back and a **federal judge ruled** the move was illegal.

Copyright 2026 Nexstar Media Inc. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.

Link to article online: <https://www.koin.com/news/portland/report-shows-violent-crime-was-already-going-down-in-portland-and-other-cities/>

ATTACHMENT

G

1
2
3
4
5
6
7
8
9
10
11

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

SHANNON WILSON, Individually and as
Executive Director of The Public Defender of
Marion County, Inc.,

Plaintiff,

v.

OREGON PUBLIC DEFENSE
COMMISSION,

Defendant.

Case No. 25CV53416
Honorable Michael C Wetzel

DECLARATION OF KENNETH SANCHAGRIN
IN SUPPORT OF DEFENDANT'S RESPONSE
TO PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION

ORS 20.140 - State fees deferred at filing

I, Kenneth Sanchagrin, hereby declare:

1. I am the Executive Director of the Oregon Public Defense Commission (“OPDC”). Governor Kotek appointed me to this role on April 17, 2025. Prior to my position with OPDC, I was the executive director of the Oregon Criminal Justice Commission from December 11, 2020 to April 16, 2025.

2. I make this declaration based upon personal knowledge, and records kept by OPDC in the regular course of business.

OPDC Contracts for Public Defense Services

3. OPDC runs Oregon’s public defense system and manages public defense services throughout the state. OPDC is responsible for contracting with public defense providers in the State of Oregon to serve all indigent defense needs in the state. Public defense services are rendered through a combination of public defense non-profit organizations, private consortia, individual contractors, panel attorneys, and OPDC Trial Representation Division attorneys.

4. Since its inception, OPDC has employed several approaches to managing and measuring attorney workload. Prior to 2021, Oregon had a flat fee model by which public

1 defense providers were paid per case on a credit system. This changed to a time procurement
2 model in 2021 by which attorneys were held to a caseload cap of 115% of the 1973 National
3 Advisory Committee Standards. In 2022, OPDC replaced this standard with a Maximum
4 Attorney Caseload or “MAC.”

5 5. With the change from pay-per-case to the new contract model, caseloads of public
6 defense providers quickly dropped, and there was a surge in unrepresented persons in Oregon.
7 Attached hereto as Exhibit 101 is a true and correct copy of the Senate Bill 337 (2023) Report
8 “Review of Oregon’s Public Defense Unrepresented Persons Crisis Team Plans” that I authored
9 in my capacity as the Executive Director of the Oregon Criminal Justice Commission, and that
10 details the unrepresented persons crisis.

11 6. Senate Bill 337 (2023) was passed by the Oregon Legislature and signed by
12 Governor Tina Kotek, and had an effective date of July 13, 2023. SB 337 enacted a number of
13 highly impactful changes to OPDC, including the abolition of the Oregon Public Defense
14 Services, the conversion of the Public Defense Services Commission to OPDC, and the transfer
15 of OPDC from the judicial branch to the executive branch, to serve at the pleasure of the
16 Governor. SB 337 also implemented a number of new requirements for OPDC’s contracts with
17 public defense providers that became effective for the 2025-2027 biennium.

18 **Public Defense Workload Standards for the 2025-2027 Biennium**

19 7. House Bill 5031 (2025) was passed by the Oregon Legislature and signed by
20 Governor Tina Kotek, and had an effective date of July 24, 2025. House Bill 5031 (2025) is the
21 legislative vehicle for the Oregon Public Defense Commission budget for the 2025-27 biennium.

22 8. HB 5031 (2025) contained “Package 840 Mandated Caseloads” which instructs
23 the Department of Administrative Services to unschedule \$22.1 million General Fund in select
24 programs that “may be scheduled only after the submission of a report by the Public Defense
25 Commission to the 2026 Legislature, and the Joint Committee on Ways and Means, with a
26 detailed comparison between budgeted and actual capacity for both contract providers and Trial

1 Representation Division staff. The report shall include a specific plan of action to address those
2 providers, or the Trial Representation Division, that are operating at less than 90% of budgeted
3 capacity.” Attached hereto as Exhibit 102 is a true and correct copy of the HB 5031 PDC – LFO
4 Recommendation. For both the OPDC Trial Representation Division and contract providers,
5 90% of budgeted capacity means 90% of the Maximum Attorney Caseload (MAC) per attorney.

6 9. The unscheduling of the total \$22.1 million General Fund is designed to
7 specifically impact the following areas in the OPDC budget:

- 8 a. \$16.5 million General Fund for the Adult Trial Division, which funds capacity
9 contracts for public defense providers across Oregon providing representation on
10 adult criminal cases (HB 5031 PDC – LFO Recommendation, pg. 12).
- 11 b. \$2.3 million General Fund for the Juvenile Trial Division, which funds capacity
12 contracts for public defense providers across Oregon providing representation on
13 juvenile cases (HB 5031 PDC – LFO Recommendation, pg. 14).
- 14 c. \$2.3 million General Fund for the Parent Child Representation Program, which
15 funds capacity contracts for public defense providers across Oregon providing
16 representation on juvenile cases (HB 5031 PDC – LFO Recommendation, pg. 36).
- 17 d. \$1 million General Fund for the Trial Representation Division (HB 5031 PDC –
18 LFO Recommendation, pg. 32).

19 10. Since the passage and effective date of HB 5031, MAC utilization has been the
20 measure of attorney capacity and workload employed by OPDC for the Trial Representation
21 Division in line with the measure for external providers. While OPDC has proposed the adoption
22 of other caseload standards, such as the National Public Defense Workload Study, the legislature
23 did not approve transitioning from MAC utilization. The Legislative Fiscal Office’s 2025-27
24 Budget Review stated that replacing MAC will reduce the state’s public defense capacity, at a
25 material increase in cost, and raise concerns as to the new model’s viability. Attached hereto as
26

1 Exhibit 103 is a true and correct copy of the LFO 2025-27 Budget Review of the Public Defense
2 Commission.

3 11. MAC utilization for the Trial Representation Division is calculated using the
4 same methodology used for external providers, except:

5 a. External providers can request that OPDC grant them additional MAC case
6 weight for Extraordinary Circumstance Cases, which are cases requiring extra
7 work due to extraordinary circumstances. The Trial Representation Division is
8 ineligible for additional MAC weighting for Extraordinary Circumstance Cases.

9 b. External providers receive MAC credit for all cases assigned to provider
10 attorneys. For cases assigned to early resolution dockets, the OPDC Trial
11 Representation Division only receives MAC credit for cases that are resolved. For
12 cases that are assigned but for which there was no resolution, no MAC credit is
13 given, even if the Trial Representation Division performed work on that case.

14 12. MAC utilization data for the OPDC Trial Representation Division is reported on
15 the OPDC Trial Division Caseload Summary Dashboard.¹ As of October 17, 2025, the published
16 MAC Utilization rates for the OPDC Trial Representation Division offices are: 97.66%
17 Northwest Regional Trial Division, 104.09% Central Valley Regional Trial Division, and
18 113.99% Southern Regional Trial Division.

19 13. The decision to measure OPDC Trial Representation Division using the MAC
20 metric was based both on the requirements of HB 5031 (2025) as well as to ensure that the
21 OPDC Trial Representation Division is held to the same standards as external public defense
22 providers.

23

24

25 ¹ Accessible at:
26 <https://app.powerbigov.us/view?r=eyJrIjoim2NhYzE0ZDYtYTVhYi00YjY2LTk1NWetNDYxNGNiOwM1N2JiliwidCI6IjliM2ExODIyLWM2ZTAtdDdjNy1hMDg5LWZiOTkYtC4ODdiZSJ9&pageName=fb6fc95229f8beb31f5f&pageName=a6b58f21c4802802ab92>

1 **I hereby declare that the above statement is true to the best of my knowledge and**
2 **belief, and that I understand it is made for use as evidence in court and is subject to penalty**
3 **for perjury.**

4 DATED October 27, 2025.



5 _____
6 KENNETH SANCHAGIN

ATTACHMENT

H

NPR/OPB All Things Considered Episode, December 5, 2024

Law

Here's what's happened in the 3 months since Oregon changed its drug rules

December 5, 2024 6:14 PM ET

Heard on All Things Considered

By Conrad Wilson

4-Minute Listen

Transcript

Starting Sept. 1, drug users in Oregon began facing new criminal penalties for possession, ending the state's experiment with drug decriminalization. What does that change look like on the ground?

Sponsor Message

SCOTT DETROW, HOST:

This year, Oregon lawmakers overhauled their highly experimental drug law. That policy had decriminalized small amounts of hard drugs, including cocaine and methamphetamine. There was a public backlash, though, due to widespread public drug use and spiking overdoses. In September, new criminal penalties for drug possession went into effect. From Oregon Public Broadcasting, Conrad Wilson brings us a view of how that is shaping up in the state's most populous county.

CONRAD WILSON, BYLINE: It's a warm fall day as Portland police officer Donny Mathew swings his leg off his city-issued mountain bike to arrest a woman named Amber for drug possession. NPR is only using Amber's first name because she was using drugs and unable to consent.

DONNY MATHEW: Anything you say can and will be used against you in a court of law. You have the right to talk...

WILSON: Mathew, along with several Oregon State police troopers, tests a substance in her possession.

MATHEW: You're pretty sure it's fentanyl?

AMBER: Um, yeah.

MATHEW: Yeah.

WILSON: Before September 1, a stop like this would have amounted to a citation and a hundred-dollar fine. Under the old law, drug users could call a state-funded hotline to get connected with treatment, which would make the penalties go away. But so few called that many Oregonians came to see the system as toothless. Now, each county gets to decide whether to arrest someone or give them treatment options. That treatment alternative is called deflection.

MATHEW: So you have two options. You can either go to jail today for the possession of fentanyl - it tested positive. Or we can call for deflection, which is, like, some social workers that will come out that have had prior addiction problems as well in the past. And they come out and talk to you and you don't get charged. So you get...

AMBER: I would love to talk to somebody.

MATHEW: ...Treatment.

WILSON: Amber tells Officer Mathew that she'd love to talk to someone. The idea behind deflection is that what drug users need is treatment, not jail. That same idea was behind drug decriminalization, but deflection adds an enforcement component. If you don't get treatment, you could face criminal consequences. A few more minutes pass, and a team from 4D Recovery, a nonprofit drug treatment provider, arrives on the scene.

ELLEN STAAS: Hi. Are you Amber?

WILSON: That's Ellen Staas. She's with 4D, as is Mina Gilson.

MINA GILSON: Sounds like she's agreed to work with us to get her into detox, so...

STAAS: It's what we're going to do.

WILSON: In the three months since the new law went into effect, this process has rapidly evolved. Police in the Portland area are now more commonly sending people to a center where they can get treatment rather than sending out mobile teams to the site of an arrest. Other counties are still getting their deflection programs up and running. Twenty-eight out of 36 counties are participating, and a handful aren't and are just arresting drug users. Ken Sanchagrin is executive director of the Oregon Criminal Justice Commission, a state agency that's helping counties roll out their treatment options.

KEN SANCHAGRIN: The legislature gave really broad discretion to counties to set up their deflection programs as long as it was a program that connected folks with behavioral health or drug addiction issues into the public health system.

WILSON: Sanchagrin says, since the new law went into effect, law enforcement officials in Oregon have filed 1,300 drug possession cases that likely wouldn't have existed otherwise. At the same time, he says, many people have also been connected with drug treatment. But, Sanchagrin says, it's way too soon to know if more people are getting into recovery compared to when drugs were decriminalized.

SANCHAGRIN: Is this a better pathway than what we had before?

WILSON: He thinks it will be years before researchers can definitively say. One of those researchers who will be watching is Keith Humphreys, a psychologist at Stanford University who studies addiction.

KEITH HUMPHREYS: Oregon, you know, is an unusual state in drug policy.

WILSON: Humphreys says what the state is trying to do is find a balance between the nation's historical war-on-drugs approach to addiction and Oregon's experiment in decriminalization.

HUMPHREYS: We've treated this as, like, a big switch that has only two settings. Neither of those gave us the outcomes that we wanted, and so Oregon's looking for something in between. And, you know, I'm rooting for Oregon. And, you know, I'm hoping that we can all learn from Oregon's experience.

WILSON: For Humphreys, success in Oregon would mean more people in long-term recovery and fewer of the consequences that public drug use brought to Oregon communities.

For NPR News, I'm Conrad Wilson in Portland, Oregon.

(SOUNDBITE OF TIWA SAVAGE SONG, "LOST TIME")

Copyright © 2024 NPR. All rights reserved. Visit our website terms of use and [permissions](#) pages at www.npr.org for further information.

Accuracy and availability of NPR transcripts may vary. Transcript text may be revised to correct errors or match updates to audio. Audio on npr.org may be edited after its original broadcast or publication. The authoritative record of NPR's programming is the audio record.

Link to online article: <https://www.npr.org/2024/12/05/nx-s1-5200007/heres-whats-happened-in-the-3-months-since-oregon-changed-its-drug-rules>

ATTACHMENT

I

View results

Respondent

96 Anonymous

03:35

Time to complete

1. Full Name*

James Comstock

2. Organization/Entity Name *

Defense Investigators of Oregon

3. Email*

jamesbcomstock@gmail.com

4. Phone Number*

503 510 0559

5. Public Comments must be directly related to agenda items for this meeting. Please specify which agenda topic your comments will relate to below. *

Budget, OPDC New Key Performance Measures, Financial Case Management System (FCMSJ)

6. What type of public comment are you submitting? *

Written

Verbal - Virtually Via Zoom

Verbal - In-Person

7. Written Public Comment

If you'd like to submit attachments, please send them to info@opdc.state.or.us in addition to filling out this form

December 3, 2025

To: Oregon Public Defense Commission

From: James Comstock
Defense Investigators of Oregon

Re: Public comment – Request for DOJ opinion regarding ORS 293.462

Over the past 6 years, Public Defense Providers who receive authorization and payment via the Pre Authorized Expense (PAE) system have been issued payment with greater and greater delay from the date of submission to the date when the money is deposited into the providers' account, or in the case of paper checks, the date on the check.

Over this period of time, assurances about improved payment times have continually been made by OPDC and have then fallen short, resulting in payment times over the last year that consistently approach and sometimes surpass 45 days from submission to payment.

The only apparent recourse for providers is to charge interest in accordance with ORS 293.462 when payment times surpass 45 days from submission to payment. The ability to charge interest is an important accountability tool which providers believe keeps OPDC payments from falling into the 50 and even 60-day range, as has happened in the past.

Providers have seen that when we do not speak up and hold OPDC accountable for the bare minimum payment time standard, payment times inevitably increase. This was such a problem that in April of 2021 providers discovered that the Finance and Budget Director of the agency was reporting payment processing times on the agency website and in Commission meetings that were false - apparently in an effort to give the impression that payment processing times were faster than they were.

OPDC acknowledged this at the time, stating: "I think it is reasonable for people to believe/have believed that the information on our website was a representation of the time from submission of bill to payment. It is not. We will be immediately taking that information off of the website, and the agency will be addressing the issue at the next PDSC meeting."

Over the last few years, providers have been given various interpretations of ORS 293.462 and its application. At times we have been told that only business days counted as part of the 45 days. At other times we have been told that the clock does not start until the first business day after submission (Monday after a Saturday submission, for example). Lately, providers have been told that the days stop counting when OPDC releases payment authorization to the Department of Administrative Services (DAS), who then processes and releases payment.

We believe that none of these interpretations are faithful to the statute.

In absence of any general counsel in OPDC who would be able to interpret the statute regarding business matters, we are formally requesting that OPDC obtain a legal opinion from DOJ attorneys as to the application of ORS 293.462.

It appears to providers that OPDC staff who are not attorneys have engaged in varied interpretations of statute - always reaching a conclusion supporting the Agency's position.

Specifically, we are asking for a legal opinion as to when the time starts counting - (We believe that according to ORS 293.462 the time starts on the date that an invoice is submitted to OPDC via the Nintex system) and when the time stops counting - (We believe that according to ORS 293.462 the time stops counting when a direct deposit arrives in the providers account, or in the case of paper checks, on the date that the check is issued by DAS)

Our understanding is that the statute is very plain and clear on this issue. We are frustrated that the historically varied OPDC interpretation of ORS 293.462 continues to cause unnecessary friction between OPDC staff and providers.

Lately, when confronted with this question, OPDC has blamed delays on the mail system, and the time that it takes for paper checks to reach providers. We believe that virtually NONE of the providers attempting to charge interest are paid by paper check.

8. Additional Notes

It comes across as if OPDC considers what happens after an invoice has been released to DAS as something out of their control and not subject to tracking of payment time in ORS 293.462. OPDC and DAS are both part of the same state government, now both are even seated in the same Executive Branch. OPDC's responsibility is to submit payment to DAS in time to be paid to providers in 45 days or less. We have no complaint about the manner in which DAS processes the payments after they leave OPDC. The time that DAS takes to process the payments is very brief and very very consistent.

To be clear - providers are not asking for interest based on when a paper check arrives in a provider's mailbox. We are asking for interest for days in excess of 45 days from the date of submission to when money is deposited in the provider's bank account by DAS, or in the case of paper checks, from the date on the check issued by DAS.

We believe that OPDC has a statutory obligation to submit invoices to DAS for payment with sufficient anticipation to allow DAS to deposit the money into providers' accounts or to issue a check within the 45 day window from the date in which the invoice is submitted to OPDC via the Nintex system, and that OPDC's obligation does not simply cease when the agency sends the payment information to DAS.

We regret the need to use ORS 293.462 as an accountability tool to keep OPDC from issuing payment to providers with even greater delay. In a financial world that is based on 30 calendar day payments, and in a state where literally no other state agency regularly issues payments over 30 calendar days after invoice submission, we hope for time when issues regarding interest for payments over 45 days is moot - because providers are paid in 30 days or less.

We are also concerned that OPDC required providers to request interest payments when payment times surpass 45 days, rather than simply paying what the agency owes the provider as a matter of course. The process that a provider must use to request interest payments has historically not been clearly documented or well publicized, causing confusion and strain in the relationship between providers and the agency. There is a general feeling among providers that the agency discourages providers from seeking interest payments to which they are entitled.

We understand that OPDC may be understaffed in the accounts payable department. We understand that OPDC believes that a new Financial Case Management System (FCMS) will fix this problem. These are the same reasons OPDC has been responding to our concerns with since 2019. Despite more than doubling AP staff and the reclassification upward of AP management, payment times have continued to increase. At least three terminated attempts at a FCMS system have made it difficult for providers to accept this as a cause of the problem and a proposed solution.

After 6 years of hearing reasons, proposed solutions, and assurances from OPDC, providers are feeling that payment of invoices in under 30 days is simply not a priority for the agency, and the ability to hold OPDC accountable by charging interest after a faithful reckoning of 45 days is our last and only recourse to keep things from getting worse.

We again ask OPDC to obtain a legal opinion from DOJ on the application of ORS 293.462 in order to settle this pernicious point of contention between OPDC staff and providers. More importantly, we ask OPDC to pay provider invoices in 30 calendar days or less.

End of public comment.

ATTACHMENT

J

Oregon Department of Justice Legislatively Approved Billing Rates 2025-2027

Billing

Billing Policy and Practices

The Oregon Department of Justice (DOJ) billing system details the cost of state legal services.

Invoice Policies

Invoices are sent monthly. They include a description of the work, the time spent on that work and the rate being charged. Invoices reflect the professional staff hours worked at the applicable billing rates, plus any direct costs related to specific matters.

Hourly Rates

Rates are based on actual costs of personnel, services and supplies, and overhead. Examples include clerical support, coordination, and necessary support systems such as computers and law libraries.

Legislatively-Approved Legal Services Rates for 2025-2027

Rates Effective July 1, 2025

Senior Attorney General	\$352 per hour
Assistant Attorney General	\$352 per hour
Investigator	\$143 per hour
Paralegal	\$143 per hour
Law Clerk	\$75 per hour
Legal Secretary/Clerical*	\$67 per hour

*In limited circumstances, we provide clerical assistance and bill the agency at the rate of \$67 per hour.

Legal Staff Time

Total time will be rounded up to the nearest .1 hour (6 minutes). Charges may include the following tasks:

- Time it takes to open and close files
- Research, including professional reading directly related to the matter
- Travel time to the client's location or elsewhere on the client's behalf
- Responses to a request for legal services
- Phone conversations, including preparation, review and writing notes to the file

Expenses and Other Costs

Expenses, identified as costs not covered by the rate, are billed only if they are incurred directly as part of the legal work necessary. Recoverable expenses billed to an agency and later cancelled will appear on the agency's invoice as a credit for that matter's expense.

Link to information online: <https://www.doj.state.or.us/oregon-department-of-justice/client-resources/billing/>