



Addressing the Crisis in Access to Justice: A Solutions-Based Action Plan

The right to legal representation stands as a bedrock of our justice system—a promise that everyone, regardless of means, should have equitable access to counsel. Yet that promise is faltering. Too many people remain in jail without representation, lengthy delays stall cases, and justice is denied while nearly 4,000 Oregonians are waiting for an attorney.

Nearly 90% of people facing criminal charges in Oregon cannot afford an attorney, and case filings are projected to climb more than 20% in the coming years. Oregon urgently needs more public defenders to keep pace with this demand and rising case filings. However, this crisis isn't just about public defense—it's system-wide. Resolving the crisis requires thoughtful, broad-based collaboration from **jails, prosecutors, public defenders, and legislators** to keep fairness and due process at the heart of Oregon's criminal legal system.

Public defenders across the state are working around the clock to meet the overwhelming and increasing demand for our services. However, we cannot solve this crisis alone. We need all actors in the system to collaborate on thoughtful and realistic solutions, and to recognize the ways in which they have contributed to this crisis. Repeating mistakes of the past—excessive public defender caseloads and inadequate public defender pay—will only deepen the problem.

Fortunately, this crisis is solvable. With smart investments, innovative practices, and honest dialogue, we can strengthen our public defense system and ensure equal access to justice for all Oregonians. The recommendations that follow outline concrete steps to achieve those goals at every level of our system.



Immediate Actions to Strengthen Public Safety

While long-term reforms are essential, there are several actions we can take now to begin addressing the crisis in access to justice.

1. **Increase the number of public defenders.** We have a supply-and-demand issue in Oregon. Public defense related case filings are projected to continue to increase by 22% statewide for fiscal year 2025–2027, according to the Oregon Judicial Department (OJD). Nonprofits are cost effective. We recruit, train and develop the largest number of public defenders in the state. We need additional funding so that we can hire more attorneys and legal professional staff, so that we can represent more clients.
2. **Increase communication/mediation in counties with high unrepresented numbers:** regular, biweekly, solutions-oriented meetings at the local level with the Oregon Public Defense Commission (OPDC), a Governor’s office representative, local DA, presiding judge, and a representative of each type of defense provider in the county (as well as a legislative representative, if they so desire), regarding:
 - a. Workloads
 - b. Case specifics
 - c. Access to discovery
 - d. Dismissals
 - e. Judicial authority
 - f. Treatment court utilization
 - g. DA charging practices
3. Similarly, examine, at both the state level and in local level meetings:
 - a. In counties with long disposition times, like Multnomah, how to **reduce continuances** in a manner that still allows for adequate review of discovery and effective representation
 - b. How to **expedite timely discovery processes**. For example, encourage judges to regularly inquire about the status of discovery and if everything has been turned over, relay guidance/expectation for discovery timelines in their county to avoid discovery being provided on the eve of trial, and increase accountability for discovery violations.
 - c. How to **expedite reasonable plea offers**
 - d. Dismissal rates and possible cases to **dismiss earlier in the process**. In some jurisdictions, a high number of cases are dismissed on the eve of trial



because the state cannot proceed. How can they be dismissed earlier to free up defense attorney time spent preparing for those cases?

- e. Designation of a supervisor to **review cases for dismissal and/or significant reduction in plea offer** upon request from the defense.
4. **Support exercises of judicial discretion that promote timely resolution** of cases in:
 - a. Providing access to treatment court, diversion, and earned dismissals
 - b. Dismissing cases in the interest of justice when appropriate
 - c. Settlement hearings in cases where negotiations have failed—where the judge can inform the parties of a fair sentence they would impose after a guilty plea.
5. Strengthen the OPDC State Trial Division's ability to take cases: **the state trial level division must hold itself to the equivalent caseload/workload standards as the contracted providers** in their current contract. While Public Defenders of Oregon supports long-term investments in data-driven workload standards, consistency in the short-term is key to a healthy system.
6. **OPDC should monitor and regularly report out:**
 - a. Movement of providers from contracted entity to hourly rate (and to state trial division)
 - b. Retention and recruitment numbers for contracted entities

Strategic Policies and Investments for the 2025 Legislative Session

To build on immediate actions and create sustainable change, the 2025 legislative session presents critical opportunities for strategic investments and policy reforms.

Empower providers to retain experienced, felony-qualified attorneys in positions where they take on felony cases and train new attorneys.

1. **Address retention issue: Remove economic incentives for felony-qualified attorneys to leave cost-effective, contracted positions where they do training of new public defenders.** Do so by better balancing the high temporary/hourly rates with the much lower contractual rate. Doing so would slow the movement of contracted attorneys to hourly rate (where attorneys have less oversight, fewer cases, and greater pay) and reduce OPDC's administrative burden.



Increasing nonprofit salaries to better align with state trial level division salaries would eliminate the disparity in compensation across provider types and retain more attorneys in cost-effective positions where they train and mentor new attorneys. The estimated cost of raising nonprofit salaries to state trial division levels would be \$19 million. The state trial division will still have a recruiting advantage in the ability to provide PERS, but the strategy would pull in more full-time public defense attorneys from out-of-state, instead of shuffling attorneys in-state.

2. **Support manageable caseloads.** Excessive caseloads are the number one cited reason for attorneys leaving the public defense workforce. Data repeatedly shows that the current caseload limits for contractors (“Maximum Attorney Caseload” or MAC) are too high and inconsistent with constitutional representation, particularly for misdemeanors and minor felonies. Sustaining a robust and stable public defense workforce requires long-term investments in data-driven caseload standards—relying on either the ABA’s Oregon Project or the National Workload Model.
3. **Fund recruitment.** Nonprofits do the vast majority of recruitment of new public defenders in the state, recruiting 108 attorneys to practice public defense since 2023, but are not funded to do this work. Rural providers, like in Coos and Douglas, need even more support to backfill positions lost to hourly rate and state trial division. Providing a \$10,000 bonus per attorney to entities that recruit attorneys new to practicing in Oregon would allow entities to recover costs of recruitment, including out-of-state recruitment fairs, position advertisement, bar transfer dues, Oregon CLE requirements, some travel or moving expenses, and/or health insurance and salary for new public defenders while waiting for them to gain admission to the Oregon Bar.
4. **Fund the actual cost of in-house and investigation at nonprofits.** OPDC currently provides \$75,000 annually per investigator, but the actual total cost per investigator is approximately \$125,000 annually.
5. **Invest in Supervised Practice Portfolio Examination (SPPE).** Provide as many opportunities in public defense as there are people interested in SPPE, which includes funding a public defense entity to pay the SPPE applicant according to SPPE rules and funding the public defense entity to provide the intense supervision



necessary. This will attract more people to enter public defense. Plus, law graduates who pursue SPPE can carry a moderate caseload post-graduation.

6. **Continue the effort to fund a finance and case management system** for better data collection of real-time workloads and reporting metrics to ensure Sixth Amendment representation. OPDC has requested \$2.1M through Policy Option Package 101 to continue the implementation of the system in 2025-2027.
7. **Continue the funding for the four legal clinic programs** currently in operation at \$3.58 million for the 2025-2027 biennium (**support [SB 474 2025](#)**). These programs have proven helpful in recruiting new attorneys into the system and it is estimated that participating law students can help handle 400-600 misdemeanor cases per academic year.

Empower judges to help resolve more cases earlier to get through the backlog. Oregon's system provides little room for judges to exercise their discretion in ways that can weed out improper charges, or help resolve cases earlier. This contributes to bottlenecks and inefficient case resolution. Increasing judicial discretion would help cases move through the system more efficiently.

1. **Increase judicial discretion in access to treatment court: support [SB 1169](#) (2025).** Currently, many drug and mental health courts require prosecutors' approval, limiting judges' ability to use the most cost-effective evidence-based approaches to community safety. This requirement, which exists both in court policy and in the conditional discharge statute (ORS 475.245), strips the court of its discretion to determine which individuals are best suited to enter the court it operates. This often results in lower admissions, as the district attorney can essentially veto entry, even if the court believes the individual would benefit and be successful in the program. This needs legislative action.
2. **Authorize judges to propose sentencing agreements.** Adopt a procedure for judges to enter sentencing agreements with defendants, where a judge would inform the defendant what sentence they would impose after a plea of guilty. This indicated sentence could include an exercise of the court's discretion to reduce felonies to misdemeanors, or misdemeanors to violations (if adopted; see below). If the defendant goes forward with a plea, and the court later decides not to impose

the indicated sentence, the defendant would be allowed to withdraw their plea. Similar procedures already exist in other jurisdictions (Michigan, California, Maryland, New York). This procedure would serve as an additional path to resolving cases earlier and without resource-intensive trial—particularly when negotiations between the parties have been unsuccessful. This can be accomplished by a Chief Justice Order or legislative action.

3. **Allow judges to reduce or dismiss charges when in the interest of justice**, in order to prioritize crimes most at risk to public safety:
 - a. **Amend ORS 135.755 to allow dismissal of cases in the interest of justice**, upon motion from the defense. This statute already permits dismissals “in furtherance of justice,” but only on the court's or the district attorney’s recommendation
 - b. **Allow misdemeanor cases to be settled as violations**. The court or the defense can move for violation treatment. Ultimately, a judge will exercise their discretion. Allow for the reduction or waiver of the violation fine. People will be more willing to settle a case as a violation which will lead to the resolution of more cases.
 - c. **Clarify ORS 161.705**. Currently, the statute allows judges to reduce felonies to misdemeanors only when the judge determines that a felony sentence “would be unduly harsh.” Amending this statute to allow reduction “in furtherance of justice” would give courts authority to exercise their discretion in more cases and would help facilitate resolution.

System Reforms for Long-Term Change

Beyond immediate actions and legislative priorities, fundamental reforms to Oregon's justice system are needed to address the root causes of our public defense crisis.

1. **Transition from a Grand Jury state to a preliminary examination state**. This fix alone would greatly reduce the felony unrepresented population by reducing the number of trials, increasing earlier resolutions, and decreasing the time to disposition in each county.
2. **Expand the use of restorative justice** to make people who have been harmed whole and allow alternatives where appropriate to promote true rehabilitation.



3. **Expand and create more pre-charging diversion programs** to reduce the number of non-violent offenses that are charged and require public defense services.
4. **Expand and create more post-charging diversion programs and earned dismissal programs.** One goal of the system is rehabilitation. Allow people who are charged with crimes to earn dismissals of some cases through accountability and completion of court-ordered programs. This furthers the goals of accountability and rehabilitation, decreases the collateral consequences of a conviction, and reduces the number of cases set for trial.

By implementing these solutions—from immediate actions to long-term reforms—Oregon can fulfill its constitutional obligation to provide legal representation while building a more equitable and effective criminal legal system.

About Public Defenders of Oregon

Public Defenders of Oregon is a coalition of 12 nonprofit offices that serve communities in 19 counties, employ more than 450 staff, and handle over 35,000 cases yearly—while training nearly all of Oregon’s new public defenders.

Learn more at publicdefendersoregon.org.