

**TESTIMONY ON SB 337  
BEFORE THE SENATE COMMITTEE ON RULES  
MAY 11, 2023**

**PRESENTED BY: MEAGAN FLYNN, OREGON SUPREME COURT CHIEF JUSTICE  
OREGON JUDICIAL DEPARTMENT**

Chair Lieber, Vice-Chair Knopp, and Members of the Committee:

My name is Meagan Flynn. I am the Chief Justice of the Oregon Supreme Court, and I appreciate the invitation to speak at this informational meeting.

I would like to start by first noting that my remarks will be submitted in writing, and that the Oregon Judicial Department (OJD) is neutral on SB 337 with the -A3 amendments. We do appreciate the removal of the provision that would have assigned the Chief Justice the responsibility to resolve disputes between the current and future agencies.

Additionally, I want to note the court's ongoing interest in ensuring that the agency responsible for providing counsel has the capacity, structure, expertise, and resources needed for that essential task. Despite our intense commitment to that goal, OJD is statutorily prohibited from exercising oversight authority over the agency, and we are as frustrated as all of you with the fact that our public defense system is in crisis and severely impacting our public safety system.

Since I last testified on this bill in March, the number of Oregonians in custody who are entitled to counsel but remain unrepresented has nearly doubled. And, in total, as of early this afternoon, almost 1,700 Oregonians with a right to counsel, both in and out of custody, do not have attorneys.

It is vital that we change this dynamic and ensure that the right to counsel in Oregon is not illusory. While many necessary steps have already been taken—including Legislative investments in recent years—more must be done.

I am grateful to the co-chairs of the Three-Branch Workgroup – Senator Prozanski and Representative Evans – for their leadership. I appreciate their comments today, as well as the testimony from Representative Kropf. I am grateful to the legislative members and their staff for their engagement. I am grateful to the diverse and many workgroup members for their participation and contributions. And I am grateful to the Legislative Policy and Research Office staff for their diligent work.

I am also deeply grateful to see all three branches government come together with this shared purpose and mission, which is to ensure that Oregon meets constitutional obligation to provide counsel for those individuals who have been charged with a crime and cannot afford counsel. We, as the leaders and individuals who are privileged to be elected and work within our respective branches of government, have a duty to ensure that this constitutional function is delivered consistently, efficiently, and in accordance with best practices.

With this in mind, I want to note that I appreciate the Governor's engagement, and I respect her evaluation of what she feels will be needed in order to make public defense successful if it is moved to the executive branch. I want to emphasize that regardless of the branch in which the agency resides, we all must continue working together to make sure that we are addressing the

need for systemic change in the long term without losing sight of the need to address the current emergency with creativity, flexibility, and focus.

While that responsibility, at times, feels overwhelming, I firmly believe this is an opportunity for us to make true improvements in Oregon's public safety system. Together we must continue to make advances in developing meaningful data to improve transparency and accountability. We must provide adequate compensation to those who work in the public defense system. We must ensure the assignment of counsel complies with best practices. And, most importantly, we must meet our obligations to the Oregonians who are most profoundly impacted by not having a qualified, court-appointed lawyer available, which includes Oregon's historically and currently marginalized populations that too often suffer disproportionate impacts in our criminal legal system.

OJD remains a committed partner in this effort, and we welcome the input, expertise, and ongoing collaboration as refinements are made and this process continues.

Thank you again for the opportunity to testify.