



SIXTH JUDICIAL DISTRICT

MORROW & UMATILLA COUNTY CIRCUIT COURTS

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HON. DANIEL J. HILL
Presiding Judge

IRMA SOLIS
Acting Trial Court Administrator

February 28, 2023

MEMORANDUM FOR The Public Safety Subcommittee of the Ways and Means Committee

Subject: Umatilla County request for Courthouse construction planning Funds, Policy Option Package 121 (OJD Budget Bill – SB 5512, Sec 10)

Chair and members of the Subcommittee

It is a pleasure for me to address the Subcommittee regarding the funding request in the Chief Justice's budget to provide funds in the amount of \$100,000 for the planning of a new Courthouse for Umatilla County. My purpose is to describe the need and the County will generally outline the ways and means.

Executive Summary

The 6th Judicial District consists of Umatilla County and Morrow County and the five Judges, one mostly grant funded Limited Duration part-time Referee Judge, for treatment court and limited general jurisdiction. Support staff consists of 40 permanent and two grant funded staff for both Umatilla and Morrow County. The 6th Judicial District has a standing request for an additional full-time elected judge and a permanent referee judge. The Umatilla County Courts consist of the 1954-55 three-courtroom, Courthouse in Pendleton and the 2004 two-courtroom Courthouse in Hermiston. The request for you to consider for Umatilla County is a request for planning funds to replace the main Courthouse in Pendleton. Umatilla County has already initiated planning, identified a location on County property, and has an objective to move towards a funding request in the next legislative session.

As defined in ORS 1.185, in my capacity as Presiding Judge, I have determined that the courthouse in Pendleton is unsuitable and insufficient to provide adequate courtrooms, jury spaces (assembly and jury rooms), and court offices. The courthouse was entirely inadequate during COVID restrictions and unable to

assemble other than a 6-person jury due to social distancing. Among the many deficiencies in the courthouse, the most egregious problems are that the courthouse has no assigned jury assembly space, can only assemble one jury at a time (even with three courtrooms), and adults in custody are temporarily confined in cells in the main hallway accessing the courtrooms clearly visible to the public.

The Pendleton Courthouse was 25th overall of 48 courthouses in 2008. Since that time the adequacy has worsened. The Pendleton Courthouse cannot be remodeled without ejecting the rest of the County offices. The footprint of the courthouse and the available ground make it impossible to add on to the courthouse. Remodel is simply not possible to accommodate the needs.

The vision is to retain the Stafford Hansell Justice Center - Courthouse in Hermiston while refocusing its operations to generally non-jury and focus more jury related operations to the more central Pendleton courthouse. The new construction would likely have the Courts, District Attorney, space for public defense (OPDS), and State Agencies such as the Criminal Justice Commission for the use of the Local Public Safety Coordinating Council, and Emergency Preparedness representatives from several state agencies, which will co-locate them with offices next to the Emergency Operations Center at the Umatilla County Jail.



Umatilla County Circuit Courthouse – Pendleton 1956(?)



Umatilla County Court House - Pendleton (2012)



Umatilla County Court House Clock Tower - Pendleton (2012)



STAFFORD HANSELL GOVERNMENT CENTER AT HERMISTON

Discussion

The Pendleton Courthouse is inadequate as required under ORS 1.185.

The Circuit Court under ORS 166.360 defines “court facility” and “public building,” and thus the whole of the courthouse at Pendleton, Oregon is contained in the definition of courthouse. As authorized by ORS 1.085, the Chief Justice has designated the county courthouse as the principal location for the sitting of the circuit court (or other structure located in the county seat that serves as the facility provided by a county pursuant to ORS 1.165). See, Chief Justice Order 98-007. Circuit Court judges fulfill their constitutionally mandated duties to administer justice both in courtrooms and in chambers. See, e.g., ORS 3.070 authorizing a circuit court judge to, in chambers as fully and as effectively as if in open court, “grant and sign defaults, judgments, interlocutory orders and provisional remedies, make findings and decide motions, demurrers and other like matters relating to any judicial business coming before” the judge, including hearing contested motions. In performing their judicial duties, judges of the state courts frequently possess information accorded confidential status by state and federal laws, privileged information, and information containing highly personal facts and data. Courts are obligated to maintain the confidential and privileged nature of the sensitive information they receive by ensuring that access to that information is restricted to the judges who possess it, and when necessary, court staff who assist the court in performing its duties whether as custodians of the courts’ records and files or as judges’ assistants. Consequently, given the nature of a circuit court judge’s constitutional and statutory duties and obligations, it is imperative that each circuit court judge is provided meaningful workspace, chambers, in which a judge can accommodate parties and attorneys for hearings or other judicial business and in which a judge may privately review

documents filed with or provided to the court. ORS 1.185 requires essentially that the County shall provide for suitable and sufficient courtrooms, staff offices, jury rooms, and space for the judges. For the Circuit Court, the facilities required to be provided are suitable and sufficient courtrooms, offices and jury rooms for the court, the judges, other officers and employees of the court and juries in attendance upon the court. ORS 1.171 empowers the Presiding Judge to issue orders to regulate Circuit Court Judicial business. That includes regulating operations of activities within the court offices and courtroom. ORS 1.180 essentially makes the Presiding Judge responsible for managing security policy within the whole courthouse. The Presiding Judge shall regulate the disposition of the judicial business of the circuit court under ORS 1.171. Pursuant to ORS 1.185 the county 'shall' provide suitable and sufficient courtrooms, offices, and jury rooms for the circuit court, including the judges, and employees of the court. Pursuant to ORS 8.225 the Trial Court Administrator is responsible for maintaining the records of the Circuit Court.

Current Condition

The 1950's era construction has been well maintained but is unsuitable for courthouse operations. It has asbestos throughout and every time there is a slight change there is a significant event for protective services and remediation. The Pendleton Courthouse facility is inadequate in that it does not provide, pursuant to ORS 1.185, suitable and sufficient courtrooms, staff offices, jury rooms, and space for the judges. Particularly, there are no dedicated and safe jury assembly locations, no private and safe access points for judges and staff to access work areas, no adequate and safe locations for those in custody to be held pending hearing, no adequate and safe passages of access for those in custody to attend hearings, inadequate courtroom sizes and courtroom configurations. The Circuit Court is unable to appropriately distribute judicial caseload among the judges as the courthouse only provides space for three judges; the others are seated in an ancillary facility in Hermiston, which is operationally inefficient and expensive for both the County and the Court. In addition to the above shortcomings, shared spaces are inadequate. For example, social distancing of six feet cannot be maintained when two people pass in the hallways and there is minimal meeting space in the courthouse for any purpose. One of the criticisms that was leveled on both the Pendleton courthouse and Hermiston facility in 2008 was that although the courts carry most of the foot traffic within both buildings, all court functions are on the second floor.

a. Ranking/2008 – 25th (Pendleton) and 6th (Hermiston annex)

Facility (of 48)	Overall	ADA	Security	Life Safety	Facility Improvements
Courthouse	25 th	39 th	36 th	34 th	15 th
Stafford Hansell	6 th	7 th	6 th	6 th	6 th

b. Evaluation against 2009 report – Overall rating of 3.42 with projected \$20 million cost to bring to standard.

Facility	Overall Rating	Overall Cost	ADA Rating	ADA Cost	Security Rating	Security Cost	Life Safety Rating	Life Safety Cost	Improvement Rating	Improvement Cost
Courthouse	3.42	\$20.0m	2.9	\$1.1m	2.8	\$6.0m	2.3	\$1.8m	4.0	\$11.1m
Stafford Hansell	4.44	\$2.5m	4.4	\$0.1m	4.2	\$1.4m	5.0	\$0	4.6	\$1.0m

Background – Courts

The Sixth Judicial District is comprised of Umatilla and Morrow County. It is important to note that the five judges of the district support three courthouses. The judges occupy three courtrooms in Pendleton and two courtrooms in Hermiston on a full-time basis and rotate through the courthouse in Morrow County. Morrow County, which is the subject of a different request for assessment to replace or remodel its courthouse has been determined by the presiding judge to be inadequate and unsuitable. Also, Morrow County Circuit Court shares its space with a justice court which handles most of the misdemeanor, Landlord Tenant FED matters, and small claims cases for that county. Umatilla County Circuit Court, divided between the courthouse in Pendleton and Hermiston court facility supports all the normal activities of the Circuit Court from small claims, civil, mental, probate, family law, and criminal law. Umatilla County also supports two large correctional institutions for postconviction relief and habeas corpus as well as mandamus arising from institutions. Claims from institutions are significant and consume substantial judicial and clerical time, particularly in light of the ‘Ramos’ and ‘Watkins’ Jury Unanimity decisions driving many more cases to the PCR court for processing.

The Hermiston satellite courthouse was constructed in 2004 and has two courtrooms and office space on the second floor. Those courtrooms are small and inadequate to manage multi-party cases. While the court was able to manage 12-person Jury trials during COVID utilizing remote technology and both courtrooms, they were otherwise proven to be individually inadequate under COVID conditions requiring social distancing. Moreover, Pendleton is the central location for the County, and best suited for jury trials given that jurors attending trial in Hermiston often must travel over an hour from the other side of the county. Jurors must travel on two-lane roads in inclement weather at sometimes over an hour to attend to jury service in Hermiston. Hermiston is quite adequate for most other non-jury matters.

The Pendleton courthouse, constructed in 1954-55, consists of three floors and a basement. The basement and first floor are County offices with Circuit Court's Enterprise Technology Services Division (for tech support) occupying a small office also in the basement. The second floor is Circuit Court facilities, and third floor which used to house the jail is now district attorney's offices and public health tracing offices. As county functions have expanded with time court space has shrunk. Room for storage of court files, meeting space for court programs, and for basic needs like jury assembly have been absorbed as county departments grow. The law library has been pushed out of the building, meeting spaces for court staff meetings, jury assembly, mediation, and other uses are either gone or must be shared with important county functions such as the Board of Commissioners' meetings. As stated above, security is poor – holding cells open into the public hallway, there are no staff restrooms, and the hallway is not wide enough for two people to pass six feet apart (socially distanced).

Primary Concerns

The primary issues pertaining to the inadequacy of the Pendleton courthouse include:

1. Inadequate jury assembly space;
2. Inadequate space within the jury box for alternate jurors for a multi-day trial;
3. Inadequate jury room size multi-day trial juries particularly under COVID;
4. Inadequate sound insulation – a defendant in a holding cell can hear what is being said in a jury room;
5. Inadequate gallery space even in the largest courtroom, particularly during COVID and social distancing – with social distancing the courtroom can seat approximately 18 people including the judge, staff, litigants and jury;
6. Inadequate courtroom space for multiple party presentations of more than two parties;

7. Inadequate and isolated judges' chambers. Actual offices are not designed to allow for viable meeting space and the three chambers are in extreme corners of the building with only the public hallway to provide for movement between them, discouraging judicial interaction, which is one of the most important facets of judicial work;
8. Holding cells for persons in-custody located in the main hallway subject to the viewing of all persons in the courthouse, as the main hallway is the main access path for everyone between each courtroom and court offices. None of the courtrooms have an access path for those in custody to be brought to the courtroom that is private or secure. Extreme difficulty is thus encountered maintaining defendants' constitutional rights leading up to a custodial jury trial;
9. Court office HVAC and lighting, as well as space functionality is generally poor;
10. ADA accommodations for staff and judges are nonexistent and limited for the public; and
11. A single antiquated and unreliable elevator provides handicap access to all floors of the courthouse as well as freight access. When this elevator is out of commission court staff must bring services to the courthouse lobby on the first floor for those who cannot climb the stairs to the court floor.

Discussion of Problems

The courthouse which is primarily subject to the assessment request is the Pendleton courthouse, constructed in 1955-1956. The Hermiston satellite courthouse constructed in 2004 is largely adequate for small operations but being on the west end of the county inconvenient for jury operations. During COVID only Hermiston with a more advanced courtroom and jury room design and county conference rooms for assembly was able to conduct twelve-person jury trials. Jurors for Hermiston must come from all over Umatilla County and thus must travel up to over an hour to Hermiston at times for jury service. Pendleton is the more centralized courthouse and more convenient for jury service. Hermiston is entirely adequate for nonjury matters and can ably conduct jury selection but with inconvenience of distance for many jurors. Such inconvenience also includes traveling long distances on two-lane roads in inclement winter weather to make it to each day of trial.

As background for the issues with the Pendleton courthouse we have learned during COVID that two adjacent courtrooms with side-by-side jury rooms in a "pod" configuration (as designed in Hermiston), can accommodate some social distancing to hold a felony trial. That said, the Hermiston facility was still too small to hold a

felony trial and allow spectators in the courtroom during COVID. Aside from one or two spectators such as a victim, victim representative, or state's representative, spectators had to appear by WebEx videoconferencing or watch a video feed in a separate conference room. Our general belief is that we must plan around endemic operations for the long term and cannot assume that any structure we build will be used according to 1950s or even 2000s "normal" at any time in the foreseeable future. Hermiston courtrooms thus are too small for jury operations. The related advantage to a "pod" configuration like Hermiston's is that judges can interact closely with each other, sharing workload and dialogue; in Pendleton on the other hand judges are isolated and forced to function more like three one-judge courts than a modern three - or five – judge courthouse.

The Pendleton courtrooms are unsuitable for operations given the layout of courtrooms in the courthouse. Although not unusual for courthouses in Oregon, this facility was laid out with the higher-traffic court activities above the main floor of the building and lower traffic county offices on the main floor. Layout is an issue with and without COVID restrictions.

There are inadequate secure areas to provide for jury intake, assembly, and to protect jurors' arrival and departure. Assuming that there is jury assembly space available, said space is also County meeting space and the County calls the shots. The structure of the County meeting space does not allow for assembly of a jury panel or social distancing. Dual use creates absolute conflict in the ability to control and schedule jury trials. The County is, of course, cooperative to the extent they can be, but are constrained by inability to plan use of their meeting rooms on short notice. It is essential for Circuit Court to have dedicated and safe jury assembly locations to support the three courtrooms in Pendleton; this space does not exist in the current building.

The courtrooms all have inadequate space for program needs due to poor design and layout. This cannot be corrected by modification to existing courtrooms. Social distancing under COVID and the risk of future social distancing rules, as well as the lack of space in courtrooms make their use almost impossible. Pendleton courtrooms do not provide for assembly of a felony trial panel or social distancing, moreover all Umatilla County courtrooms were designed for 12 jurors when in fact we nearly always need alternate jurors for multiple day trials. The jury panel boxes are inadequate for the purposes of performing typical jury trials, lacking a seat for even one alternate juror or space that is ADA compliant (for a wheelchair or other disability). This design deficit cannot be corrected by mere modification of courtrooms.

Another critical shortcoming in the existing courthouse is security. While the County has rearranged entrance screening to provide a single point of entry for the public, the building layout has (1) no separate circulation for adult or juvenile defendants who are in custody from the same stairs, elevator, and hallways which are also used by the public, court staff, and judges. Further, (2) the holding cells open into the main hallway of the courthouse allowing anyone coming into the courthouse including jurors, alleged victims, and defendants' families; to have a potential viewing of the defendant in a holding cell. These holding cells are not soundproof so that a person in the cell can be clearly heard in the hallway and adjacent jury rooms and likewise that person can hear what is transpiring in the hallway or the jury rooms.

The courthouse is inadequately designed for the purposes of being able to protect the necessary rights of the defendant prior to trial and is ripe for mistrial due to the way the building is designed.

The Pendleton courthouse is not prepared for any seismic activity, though risk is generally low. It has a flat roof not ready for significant climate change including high amounts of snow. The primary issues with the Pendleton courthouse, are the actual and potential threats to human health and safety. With this we include risk to constitutional rights of defendants and other persons before the court.

Jurors must assemble and park in open areas making them subject to scrutiny, photography, and harassment. There is no private area for jurors to assemble through and avoid such scrutiny and harassment. Their vehicles are subject to being photographed and damaged. While there have been only a few instances of actual incidents, the photography and implied scrutiny as well as being accosted in a dark parking lot or being shouted at as they leave the building has caused extreme concern for jurors. The County does not have any secure and private jury assembly space for the court to manage jury assembly operations effectively. Jurors have had to assemble in the public hallway of the courthouse, stepping aside so that litigants can access the restrooms.

Sheriff's Courthouse security and transport staff must bring prisoners into the courthouse via the main hallway amongst everyone to place them in holding cells. The Pendleton courthouse is located several miles from the county jail, requiring prisoner transport by car, the court seeks to use video to the best extent possible, however, that is often not available due to constitutional reasons. Clearly this brings absolute, actual, and present danger to everyone around complex and dangerous cases.

There is no separate access point for two of the courtrooms and those two judges must go through the main hallway amongst the defendants and parties to reach their chambers and courtroom. There is no separate access point for staff to access the courthouse besides the main hallway. They are exposed to being the subject to harassment, photography, and scrutiny of those attending the courthouse whatever reason they may have.

Photos



Main Hallway and AIC cell

Yellow Star on 227 door is TCA office. Red star is holding cell. Green arrow is judge access to chambers. Blue arrow is staff access to secure office space, directly across the hall from holding cell.



AIC Cell and the TCA office in the Hallway



Hallway

View from in front of holding cell looking toward the public entrance located 3 doors down on the right



Jury Room in Courtroom #2



Courtroom #3



Courtroom #3

Note beam with green post obstructing the view of spectators/defendants seated in the spectator benches.

The Construction Objective

It is the County Courthouse Planning Committee's opinion that replacing the courthouse is the only course of action. It is our current assessment going into this request for assessment funds that Circuit Court facilities in Pendleton will be relocated to a new courthouse located closer to the jail.

- This will allow the county to remodel the current facility and use the second floor for County offices.
- Remodeling the current courthouse does not appear to be viable to correct the problems that have been identified. For instance, there is no way to place holding cells in any other location, other than more inconvenient and more difficult locations for security purposes.
- There is no way to create private access points for the judges and staff to the court facilities.
- There is no way to create more space for juror assembly space in a secure manner.
- There is no way to expand the courtroom size to accommodate social distancing. Two courtrooms were built to 1950s standards and the third was

an afterthought which was not designed for jury trials. Remodeling of the courthouse is simply not going to be more cost-effective than building a new facility.

- Moreover, Umatilla County has requested an additional full-time judge and permanent funding for a Referee Judge. While a new judicial position is a long-term issue so is construction of a courthouse.
- It is our opinion that construction of a court facility in Pendleton would provide for placement of all judges in one location. This would allow for the benefits of more effective communication among the judges and more efficient management of cases. The thought is to provide six full-service courtrooms to accommodate six judges in a single location, to improve access for jurors and court users from all parts of the county, as well as reduce operating costs for the Sheriff's office, particularly in the transport of in-custody defendants, and to operate the Hermiston facility as a satellite with full civil and criminal support short of trial for the West End, and judges rotating through Hermiston as well as supporting Morrow County. Such a new facility would accommodate jury operations with dedicated and secure jury assembly space, dedicated properly planned security envelopes for the public, staff, judges, and for in-custody defendants, with truly secure holding cells, secure entry points for judges and staff, and better secured entry points for persons entering the court facility. We are also planning a Mediation – Settlement Center with adjacent conference rooms to perform what has become a regular process of pretrial civil and criminal settlements.
- We are anticipating State Agency space for OPDS for our three public defense entities, and an Emergency Preparedness Suite for our regional State Emergency preparedness representatives, along with the County Emergency Management Department.

Capacity and Future Need Discussion

Umatilla County's estimated 2023 population is 81,332 with a growth rate of 0.52% in the past year according to the most recent United States census data. Umatilla County, Oregon is the 14th largest county in Oregon. The Judges and staff of the judicial district support three courthouses, Pendleton, Hermiston, and Morrow County at Heppner. It is supported by the Umatilla County jail. The jail has a maximum capacity of 252 and an average capacity of 203-235. Each month the jail has approximately 330-350 intakes. Umatilla County also consists of 21.37% Spanish language, 77.29% English, with other languages and dialects prevalent.

Moreover, the poverty rate runs between 15% and 26% depending on racial group. These groups tend to be more self-represented and thus need more publicly provided services. As such, more staff resources are needed to serve the underserved and non-English speaking members of the community. Current staffing does not account for this recruitment need. For building considerations this means we assess our building space needs on additional positions.

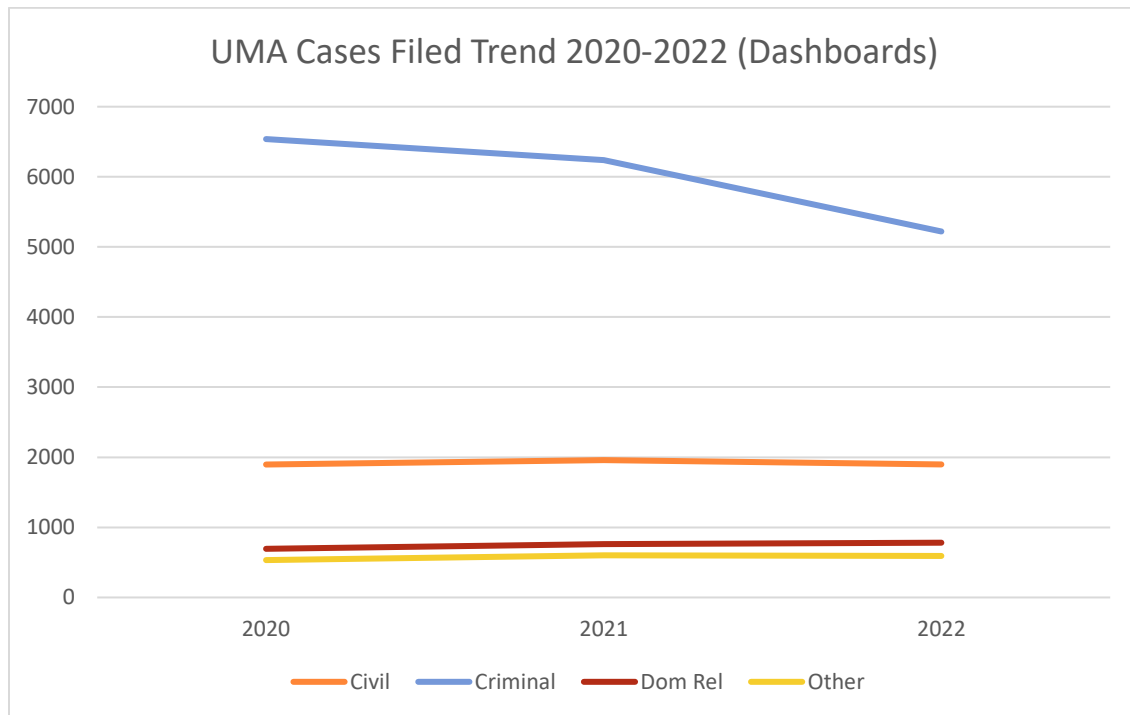
While Measure 110 significantly reduced criminal case filings, eliminating the processing of drug cases, which would have ordinarily resulted in probation, drug treatment, and probation monitoring; we have seen an increase in criminal cases that are serious in nature, resulting in more complex cases of much more serious nature with drug related causation or a nexus. With a large number of cases pending trial and a large number of defendants in custody awaiting trial, processing multiple trials in Pendleton is greatly hampered by the inability to have more than one jury start on the same day. Moreover, in the civil arena, domestic relations cases are more often self-represented causing significantly more judicial and clerical time to manage.

The population in Umatilla County is steadily increasing, and while a surprise to many, Hermiston is the largest city in Eastern Oregon (outside of the Central Oregon Bend area). Hermiston in 2023 has a population of 20,137 and is the 35th largest city in Oregon, growing at a rate of about 1.31% annually, increasing 4.05% since 2020. Pendleton has a 2023 population of 17,257, and is growing at the rate of .29% annually. Umatilla has a population of 7,501, and is currently growing at .62% annually. Umatilla County has two correctional institutions, Eastern Oregon Correctional Institution (EOCI) at Pendleton, and Two Rivers Correctional Institution (TRCI) at Umatilla. TRCI has a maximum of 1632 Adults in Custody and EOCI has a population of around 1700 Adults in Custody. These institutions provide the circuit court significant additional legal issues from offenses occurring from within the institution, post-conviction relief, habeas corpus, mandamus, and AIC civil litigation.

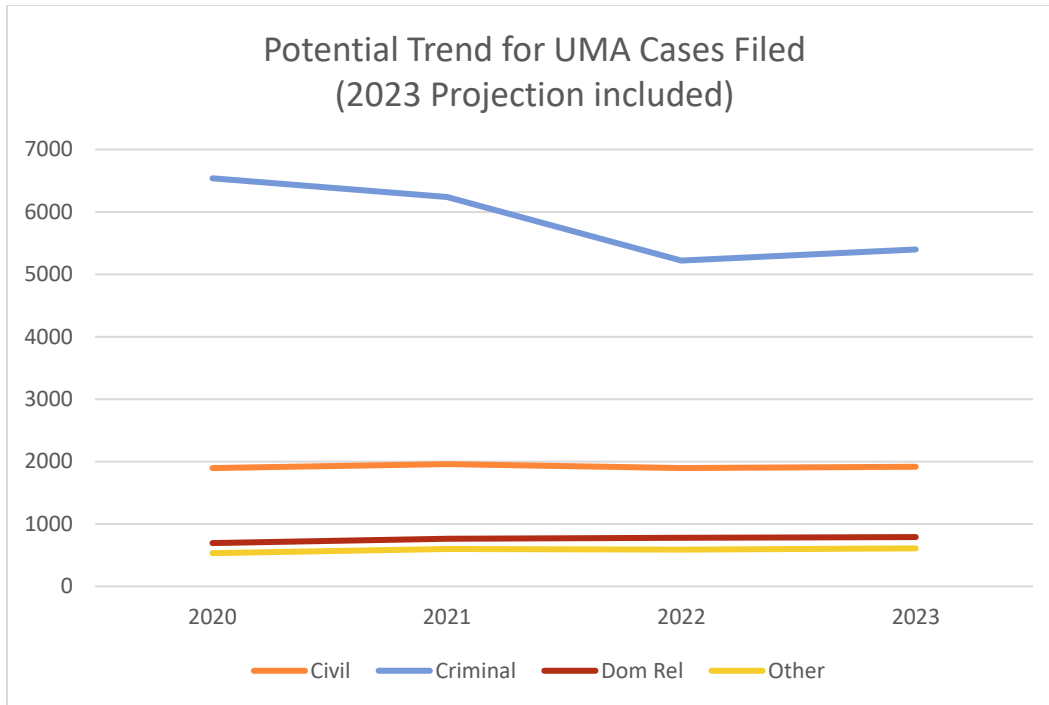
The trends for litigation in Umatilla County are up on civil and domestic relations, and criminal, while down due to Measure 110, are now resulting in many more significant and complex criminal cases, including murder, robbery, and rape in before unheard-of numbers. Currently, 3 courtrooms manage criminal cases and two manage civil, domestic, and juvenile, with the .5 FTE Referee managing treatment court and taking some other civil matters.

UMA Cases Filed by year and case type				
	2020	2021	2022	2023*
Civil	1896	1959	1898	285
Criminal	6538	6239	5220	834
Dom Rel	694	762	781	126
Other	533	601	591	82
Totals	9661	9561	8490	1327

*2023 numbers are filing through 2/22/2023



Growth From Year to Year							
	2020	2021	change	2022	change	Avg Change	2023 projection
Civil	1896	1959	3%	1898	-3%	0%	1918
Criminal	6538	6239	-5%	5220	-16%	-10%	5399
Dom Rel	694	762	10%	781	2%	6%	790
Other	533	601	13%	591	-2%	6%	610



I thank the Subcommittee for its hard work in assessing need across the State for use of the State’s limited resources and assure the Subcommittee that this is a true need to address issues our region and provide the critical judicial services that the people of Umatilla County need and deserve.

Submitted:

Daniel J. Hill, Circuit Court Judge

**DANIEL J. HILL
PRESIDING JUDGE**