



**Washington County District Attorney's Office
Multnomah County District Attorneys' Office**



March 5, 2025

RE: HB 2614 and the Public Defense System

Chair Kropf, Vice-Chair Chotzen, Vice-Chair Wallan, and members of the committee:

As the elected district attorneys of Multnomah and Washington Counties we represent and serve a combined 1.4 million Oregonians in the two most populous counties. Our two courthouses account for over 15,000 filed criminal cases annually and include approximately 45% of Oregon's currently "unrepresented" defendants.

Over the last three years we have personally witnessed Oregon's public defense system fail to ensure indigent defendants charged with crimes receive attorneys in a timely manner. This has caused great harm throughout the state, especially in Multnomah and Washington counties. It harms the defendants who are denied an attorney, the victims who are denied a day in court, the court systems that strain from massive backlogs, and the communities who endure unaddressed criminal behavior.

While this issue has been the focus of numerous workgroups, committees, media attention, and crisis plans, a workable and durable solution has remained elusive. However, we do not consider this problem unsolvable. Rather, we believe a commonsense solution informed by the experience and input from defense attorneys, judges, and prosecutors offers a path forward.

With that in mind, we offer the attached proposal designed to accomplish two goals: (1) provide immediate relief to the public defense system in the short-term; and (2) provide a framework so that thoughtful structural reform may occur in the long-term.

We believe this proposal, if enacted, will work on day one. It is important to note that we obtained these ideas through collaboration and have no interest in taking credit for this proposal. Our only desire is to see swift change for the unrepresented defendants, the victims whose cases are not going forward, and the communities that need and deserve a fully functioning justice system.

While the last three years have demonstrated that a dysfunctional public defense system has a direct bearing on public safety, the functionality of the public defense system is not an area where district attorneys traditionally have expertise. Therefore, we have collaborated with defense attorneys, judges, and prosecutors in crisis counties to build this proposal. These ideas have the support of crisis county district attorneys in Multnomah, Washington, Jackson, Marion,

Douglas, Coos, and Klamath counties. Put simply, our proposal is a blend of many good ideas from many experienced experts from across the state.

We are motivated by our sense of obligation to the communities we serve and the justice system we have taken an oath to uphold. Our hope is that these ideas, along with ideas we understand others may be developing, will help provide a path toward a workable and durable solution.

We look forward to working with this committee and the legislature. Thank you for the opportunity to testify and we are available for any questions the committee may have.



Kevin Barton
Washington County District Attorney



Nathan Vasquez
Multnomah County District Attorney

Proposed Indigent Defense Bill One-Pager Attached

PROPOSED INDIGENT DEFENSE BILL

The following provides temporary relief to the indigent defense system so that thoughtful structural reform may occur. This will sunset on June 30, 2031, and apply only to crisis counties.

- (1) Incentivize defense attorneys with capacity to take more cases**
Defense attorneys with at least five years' experience who affirm they have ethical capacity may voluntarily exceed MAC by 125% and OPDC must pay them proportionally. Defense consortiums will continue to receive indigent defense cases.
- (2) Require defense firms to return funds or OPDC to reduce payments if they do not meet MAC requirements**
Defense firms, including the trial division of OPDC, who do not meet at least 95% of prorated MAC, based on a three-month rolling average, must either return a proportional amount of funds to OPDC or receive reduced payments accordingly.
- (3) Require presiding judges to take an active role locating available defense counsel**
Presiding judges must take steps to locate available defense counsel immediately upon learning a defendant is unrepresented. This includes initiating a reverse auction, appointing select privately retained attorneys to indigent cases, and reassigning indigent defense attorneys from lower priority cases to higher priority cases.
- (4) Incentivize district attorneys to consider and implement efficiency improvements such as early case resolution dockets, diversion programs, and digital discovery**
Require the Criminal Justice Commission (CJC) to provide logistical and grant funding support to district attorneys and courts to explore and, if approved by Local Public Safety Coordinating Councils, implement system efficiencies such as early case resolution dockets, misdemeanor diversion programs, and full digital discovery.
- (5) Ensure transparency and accountability at OPDC**
Make OPDC a client agency within the Department of Administrative Services (DAS), give the governor the power to appoint and remove the OPDC executive director, and ensure attorney MAC utilization data is available as a public record while protecting attorney-client privilege.
- (6) Study and propose thoughtful structural reforms for a better indigent defense system in 2031**
Require Oregon Criminal Justice Commission (CJC) to study Oregon's indigent defense system and produce a report with recommendations no later than July 30, 2027. Study to include: pay parity analysis of prosecutors and defense attorneys, review of recommendations in OJD's Summary of Circuit Court Crisis Plans, review of Secretary of State forthcoming performance audit, and a workgroup comprised of subject matter experts and practitioners.