



METROPOLITAN PUBLIC DEFENDER SERVICES, INC.

March 21, 2025

Re: **Support for HB 5031**

Dear Co-Chair Broadman, Co-Chair Evans, and Members of the Joint Committee on Public Safety,

My name is Carl Macpherson, and I am the Executive Director at MPD, a nonprofit office and the primary provider of public defense services in Multnomah and Washington counties. MPD has been a provider since 1971 and I have worked in public defense for 27 years.

March 18th was National Public Defenders Day: the 62nd anniversary of Gideon v. Wainwright, the Supreme Court decision guaranteeing representation for everyone charged in a criminal case. Unfortunately, the promise of Gideon remains unfulfilled in our State with thousands of unrepresented people. Further, the Oregon Judicial Department (OJD) indicates that public defense related case filings have increased every year for the past 4 years, and are forecasted to increase 22% statewide over FY 2025-27.

Simply, we do not have enough public defenders and a rise in case filings will exacerbate the unrepresented crisis. Today's labor market, and today's cases, are much different than before the pandemic. Attorneys have more career options and cases are much more complex with mental health acuity of clients and the explosion of discovery, including body cam footage, for example. We truly need more lawyers, investigators, legal assistants and case managers to handle the demand (case filings). We also need to stem the burnout of attorneys leaving the workforce, which surveys indicate occurs due to compensation, workloads and stress. I believe any solution, and budget decisions, should begin with recognizing and prioritizing the full-time providers.

Nonprofit offices do the vast majority of recruitment in Oregon bringing in hundreds of new public defender's over the past several years. In fact, MPD alone has brought in more than 150 new lawyers to our system over the past 6 years. Nonprofit offices recruit, train, supervise, develop and mentor the majority of new public defenders. We are comparable to residency for those in medical school, which is necessary: law school does not adequately prepare lawyers to represent public defense clients. We offer internships, legal clinics, and post-graduate training for new lawyers. We also have many experienced lawyers who view public defense as a calling and are career public defenders. Our varying levels of experience, and multiple job categories, provides a collaborative and collegial environment with wide-ranging expertise, backgrounds and innovation.

Nonprofit offices provide a cost-effective and fiscally responsible delivery model. For example, estimates indicate that the THIP/hourly program is the most expensive model and costs roughly 3 times per case more than our offices. We also provide accountability as we have training and

supervision, as well as board of directors and annual audits as nonprofit organizations. The State knows how it spends its money with us, who works in our organizations and what we do. We serve communities in 19 counties, employ more than 450 staff, and handle over 35,000 cases yearly.

Now is the time to add lawyers and legal professional support staff to nonprofit offices. Due to a national shortage of public defenders, and economic factors, it is becoming increasingly difficult to recruit and retain new lawyers. Despite these obstacles, we have 16 new law graduates joining our office in the Fall of 2025: alarmingly, we do not know if the State will be able to support MPD in our efforts to add the new public defenders our community so desperately needs. Essentially, we can add full-time public defenders, but this requires the State to prioritize the current contractors, the non-profits.

We have heard proposals to force public defenders to take more cases. Such proposals are concerning, especially at a time when the State needs to retain full-time contractors. According to OPDC, from July of 2023 to January of 2025, Oregon lost roughly 25% (128) of our contracted public defenders statewide (i.e., consortia and non-profits). 67% of them left public defense entirely. 33% went to the State trial division and hourly programs, which offer lower caseloads. Although the providers were replaced, it takes time to fill vacancies, you lose valuable experience with each resignation, and you primarily replace experienced attorneys with new attorneys. Proposals that ignore the public safety and criminal legal system crisis we are in, not just a public defense crisis, will exacerbate the problem. We need to pursue policies and support budgets that help both retain experienced attorneys and add attorneys and legal professional staff to current providers.

Please also be wary of proposals to pay lawyers to take more cases: this would be a return to the pay-per-case model Oregon used to have that is disfavored for many reasons and not allowed as of July 1, 2027. Simply, this concept creates a financial incentive for lawyers to take on more cases for increased compensation to the possible detriment of their clients.

Lastly, Public Defenders of Oregon (PDO) - the statewide association of nonprofit public defense offices - has a plan to address the crisis in access to justice. The plan includes funding requests that my colleagues mentioned in their testimony, as well as the desire to cover the cost of investigation - all are critically important. But the plan also includes actions that do not require funding at all and can be implemented today. It simply requires all components of the system to come to the table and take accountability for solutions. ([Public Defenders of Oregon](#))

Thank you for your time and hard work on public safety and public defense. Non-profits are the backbone of our public defense delivery system. We will continue to provide ethical and effective representation for the clients we are privileged to represent. We also will continue to engage and discuss solutions as we all move forward.