



Testimony on HB 2614

The Oregon Criminal Justice Truth Project, a group of former law enforcement professionals that rely on data and experience to inform the public safety discussion in Oregon, offers support for the -1 and -2 amendments. Resolving the indigent defense crisis is essential to the operation of our criminal justice system, the courts, and our communities.

In two short years, over 50,000 defendants failed to receive timely representation. Tens of thousands of victims return to court again and again as their cases continue to languish for months or years. The already overburdened courts are paralyzed with dockets jammed with hearing after hearing, only to have no defense attorney available. The impacts are staggering: New crimes, new victims, new costs from the courts to corrections, and zero accountability in our communities.

The crisis need never have occurred.

Oregon's indigent defense system is one of the top funded in the nation. In 1999, the U.S. Bureau of Justice Statistics ranked Oregon 8th among states with centrally-funded indigent defense. By 2012, Oregon climbed to second, spending nearly \$29 per person. Since that time, we can find no state that has made a larger investment in indigent defense. As a result, today, Oregon spends a staggering \$71 per person. Nearly four times the national average.

As Oregon's funding for indigent defense doubled, from \$300 to \$600 million a biennium, case counts declined sharply, plunging by over 20%. Since 2021, 35,000 fewer cases were handled with \$300 million more dollars. Yet the number of unrepresented defendants skyrocketed from under 100 in January 2022 to over 4,000 people today.

The legislature and the people of Oregon have been on the receiving end of a well-orchestrated plan to dramatically increase funding and significantly reduce caseloads. Oregon is, again, patient zero in an effort that is emerging nationwide. And, again, the plan is resulting in dramatic and debilitating impacts across our criminal justice system. In this case, largely hidden from the public, but impacting many of our most vulnerable citizens – defendants and victims of crime.

Based on two reports, one from the Sixth Amendment Center and another from the American Bar Association – both organizations with significant policy agendas, contracts were developed the OPDC and agreed to with providers with no oversight from the legislature or any other government body. Those contracts, inevitably, would result in a dramatic shortage of attorneys. That was pre-ordained. Pay per case was eliminated, caseload restrictions were established, and a report was issued noting that some 700 new attorneys would be required to pick up the slack. Then a six year plan was created for a problem that, unquestionably, would hit within six months.

The legislature is justifiably frustrated, as are judges, offenders and victims. Thank you to those legislators who are working hard to un-ring this bell. The proposals in the -1 and -2 amendments reflect important changes. More money is not the solution. More oversight. Yes. More flexibility. Yes. More money. No.

That said, please go further than these:

- Immediately free up willing attorneys to take on more cases. The OCDLA testimony highlights their 1,200 members. If just half of them took two more cases a week, there would be no crisis.
- Redirect funds from firms that take fewer cases to firms that take more cases. Particularly in the crisis counties.
- Lift the sunset on consortia attorneys. As many have stated, why would we cut the most efficient component of our system?
- Fully embrace the secretary of state audit. There are reasons that this crisis is largely limited to seven counties. What are Oregon's other 29 counties doing right? The audit team should dig into every caseload for every attorney in every office. Offenders, victims, and the public deserve to know exactly how their money is being invested.
- They should also dig into the two reports that are relied upon to justify the seismic changes in service delivery that are behind this unnecessary crisis. Bad advice leads to bad outcomes.
- They should dig into the turnover problem that is frequently cited as a major contributor. Yet two years into this failed effort, funding is at an all time high and caseloads are at an all time low yet turnover is, apparently, higher than ever before.
- Again, the math doesn't match reality.
- Finally, there must be stronger oversight. The agency must have known that this crisis would happen. Yet the policies were implemented and the contracts were signed. The proposals shared with the committee were promising, but are two years too late.

So, again, thank you for taking up this critical issue. Oregonians can wait no longer. In hundreds, if not thousands, of cases in which offenders who did not receive timely counsel they went on to commit more violent criminal acts – including at least two homicides. Every day, there are more cases, more victims, and less accountability. It must stop.

Oregon's public defenders deserve equitable pay and responsible caseloads, but it cannot come at the expense of justice.