



Oregon Judicial Department

Unrepresented Crisis – June 2024 Update

Key Insights

[Unrepresented Trends](#)

The number of unrepresented individuals continues to increase ([Figure 1](#)). Deschutes County is experiencing a severe and sudden attorney shortage and spike in unrepresented ([Figure 2](#)). Attorneys have been added to contracts, but appointments taken has not increased yet ([Figure 3](#)). For daily updates, you can access the [Unrepresented Dashboard](#) on the OJD website.

[Average Time Unrepresented](#)

People who are out of custody with pending felony cases continue to wait longer, on average, than people who are out of custody with misdemeanor cases, but significant improvements have been made for people in-custody. ([Figure 4](#)).

[Unrepresented by County](#)

The crisis is most severe in Jackson, Marion, Multnomah, Washington, and Douglas counties and growing more severe in Clatsop, Deschutes, Klamath, Lake, Coos, Umatilla, Malheur and Lincoln counties ([Figure 5](#)).

[OPDC Trial Division Offices](#)

The OPDC Trial Division Offices continue to ramp up. Nine attorneys have taken 268 new appointments since December 2023, primarily in Jackson and Multnomah on misdemeanors and minor felonies ([Figure 6](#) and [Figure 7](#)).

[Data Share Update](#)

In May 2024, OPDC was provided direct access to the OJD Data Warehouse which includes OJD court data on attorney appointments, unrepresented persons, and public defense caseloads. OPDC is starting to share data OJD has requested regarding updated prorated contract and hourly attorney start and end dates, attorney qualifications, attorney caseload reports, and the Temporary Hourly Increase Program (THIP) case list. OJD staff continue to meet weekly with the OPDC data team.

[Circuit Court Case Filings](#)

Criminal case filings remain more than 20% below pre-pandemic levels. They have been on the rise for two consecutive years and are projected to continue to increase. ([Figure 8](#)).

[Case Dispositions](#)

The number of cases resolved by courts is expected to decrease in fiscal year 2024 by 5% ([Figure 9](#)) primarily due to delays caused by the unrepresented crisis.

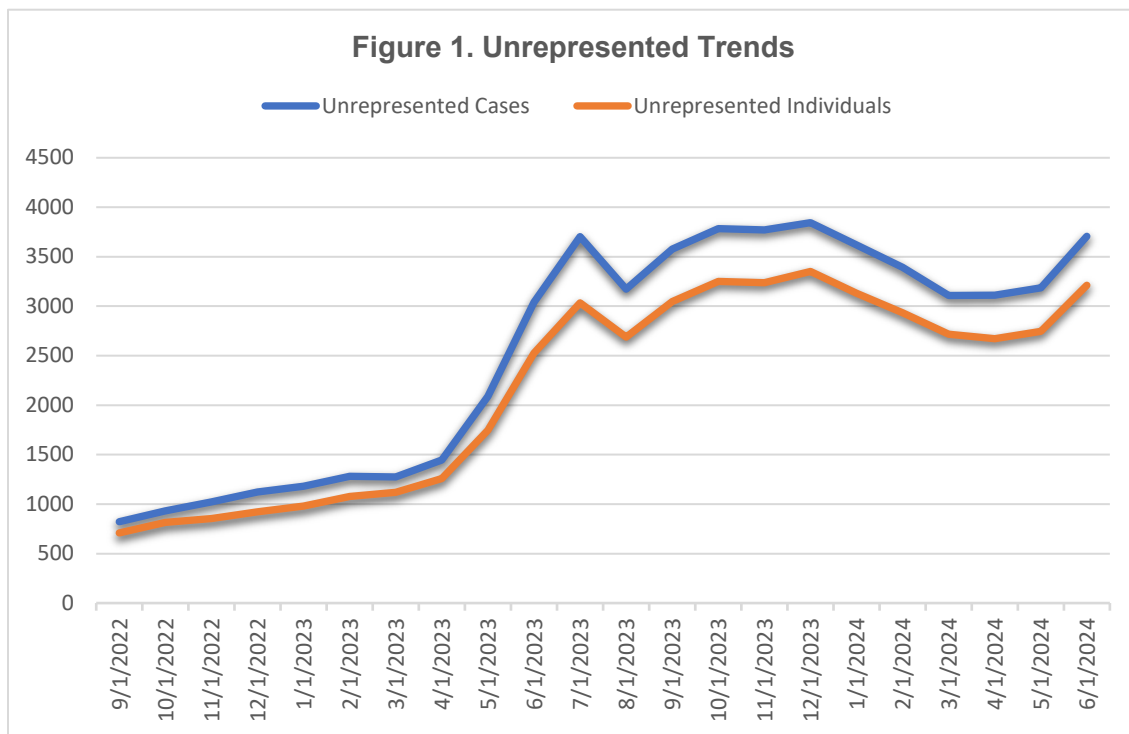
[Local Court Spotlights](#)

Courts involved with the [Intake Form Pilot Program](#) report positive experiences. The [Jackson County Circuit Court](#) shares its experience with the unrepresented crisis.

Unrepresented Trends

Figure 1 shows the number of unrepresented individuals continues to increase even as new attorneys are added in public defense offices and regional trial division offices.

- As of 4/1/2024, there were 2,671 unrepresented individuals with 3,110 unrepresented cases:
 - 1,693 misdemeanors,
 - 1,305 felonies, and
 - 112 non-criminal cases.
- As of 5/1/2024, there were 2,747 unrepresented individuals with 3,184 unrepresented cases:
 - 1,769 misdemeanors,
 - 1,340 felonies, and
 - 75 non-criminal cases.
- As of 6/1/2024, there were 3,210 unrepresented individuals with 3,707 unrepresented cases:
 - 2,082 misdemeanors,
 - 1,552 felonies, and
 - 73 non-criminal cases.

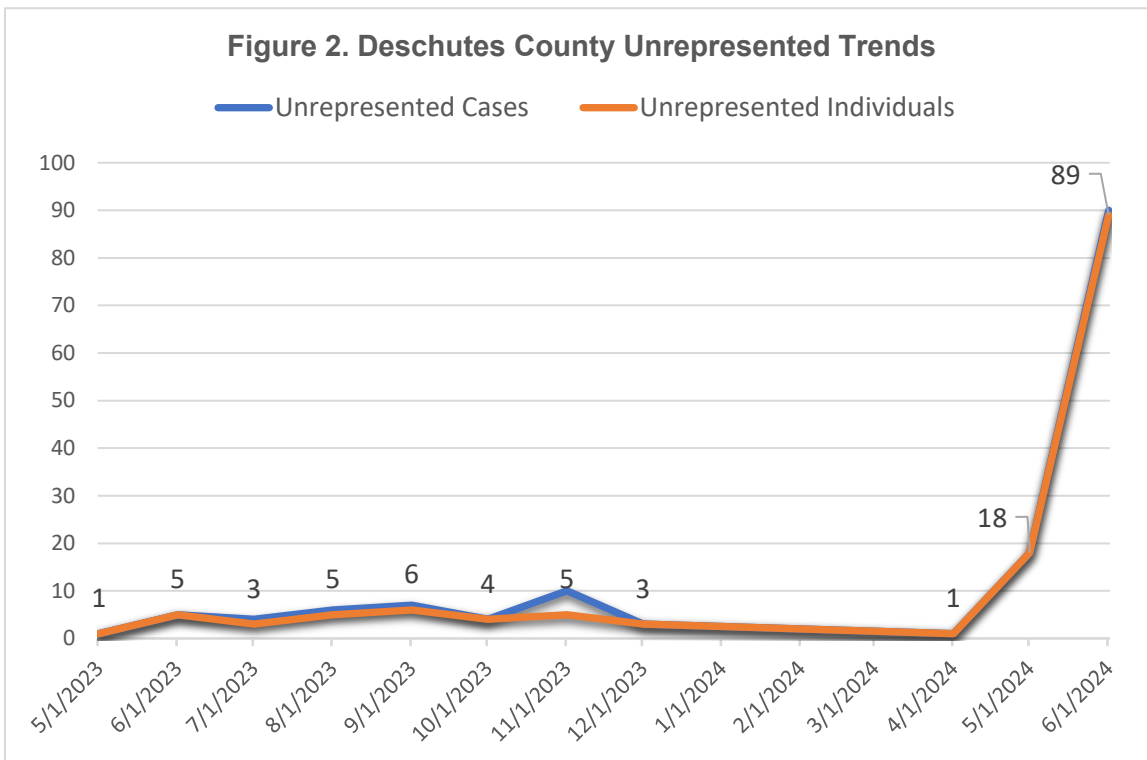


Source: OJD Odyssey Data (eCourt).

Deschutes County recently lost six attorneys and now has a spike in its unrepresented population.

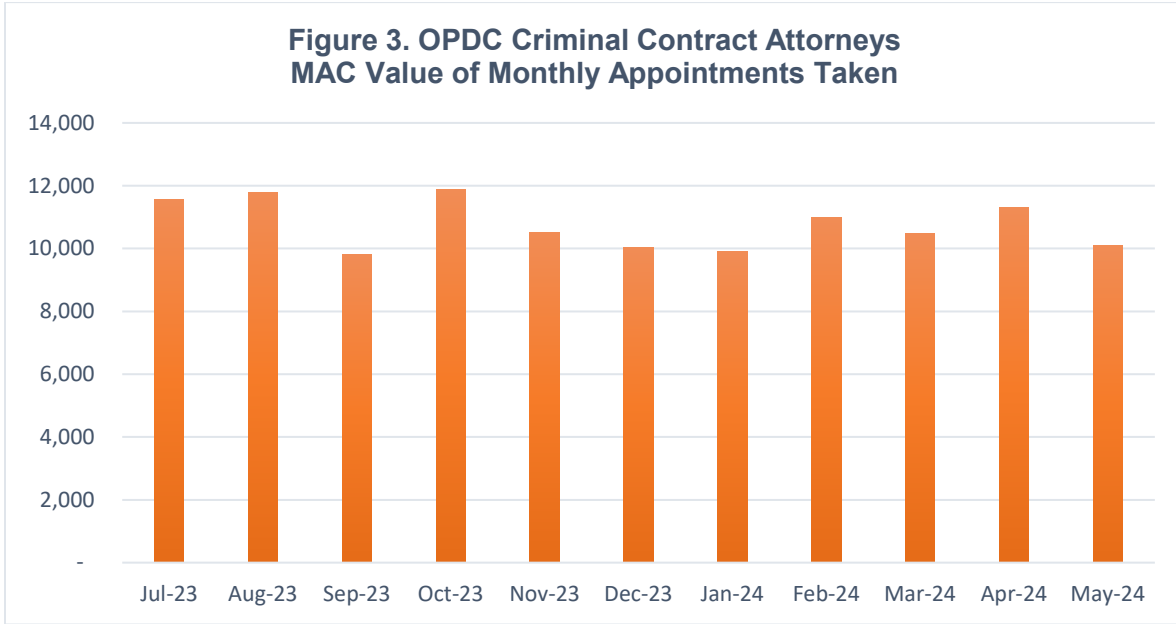
As of 6/1/2024, Deschutes County had 89 unrepresented individuals with 90 unrepresented cases:

- 53 misdemeanors, and
- 37 felonies.



Source: OJD Odyssey Data (eCourt).

Although more attorneys have been added to existing contracts statewide since July 2023, total appointments taken under those contracts has not increased yet. OPDC staff can provide more information on MAC added since July and MAC utilization by county, provider, and attorney.

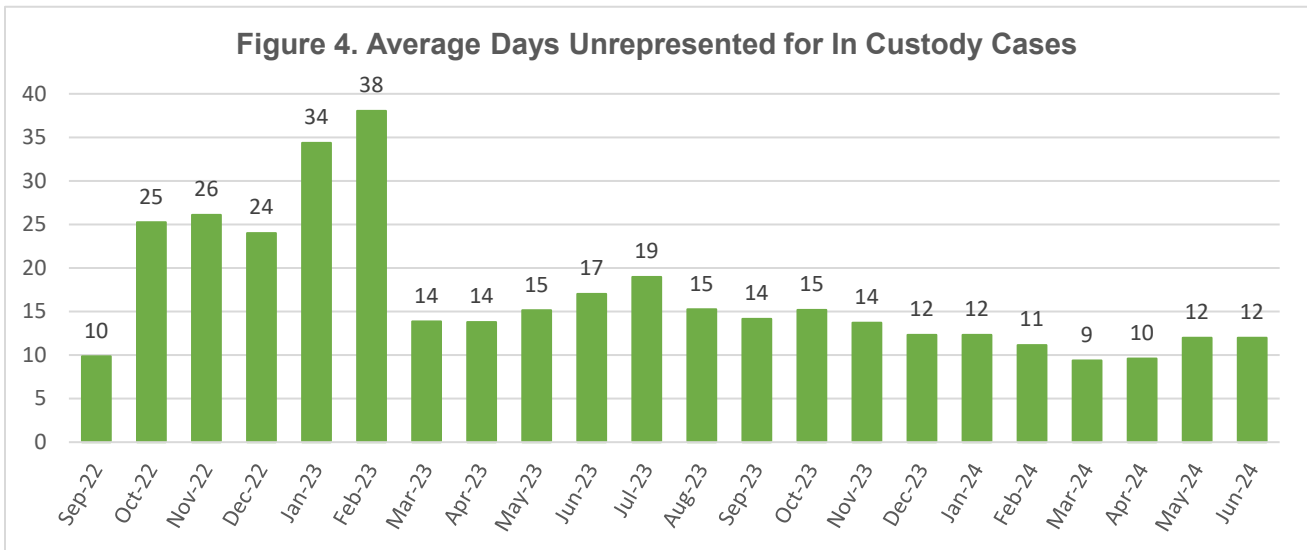


Source: OJD Odyssey Data (eCourt).

Average Time Unrepresented

People who are out of custody with felony cases are waiting an average of more than **three** months for an attorney. Out-of-custody people with misdemeanor cases are waiting an average of more than **two** months for an attorney.

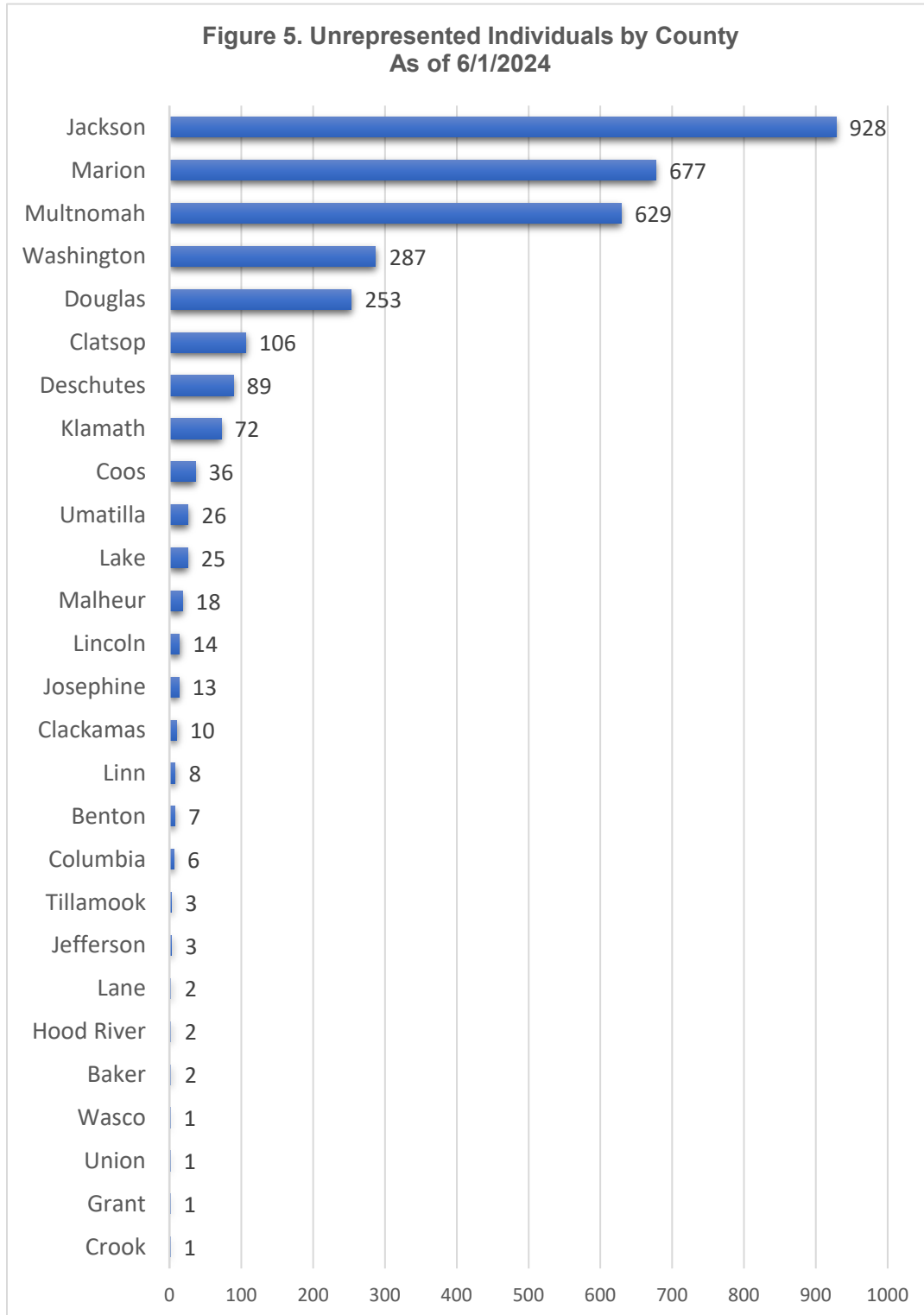
Figure 4 shows improvements have been made since 2022 on the average time an unrepresented person must wait in custody before an attorney is appointed.



Source: OJD Odyssey Data (eCourt).

Unrepresented by County

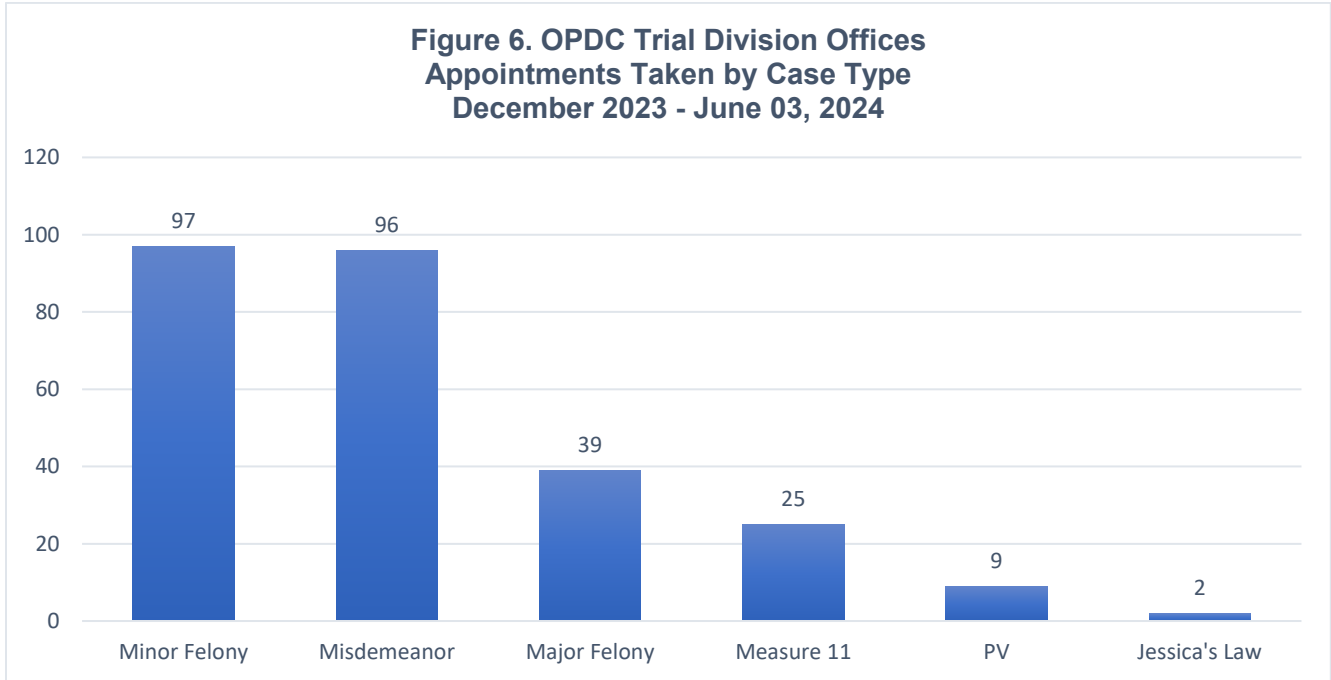
Figure 5 shows the number of unrepresented individuals by county and where the crisis is most severe. The OPDC regional trial division offices are primarily taking appointments in Jackson and Multnomah on misdemeanors and minor felonies.



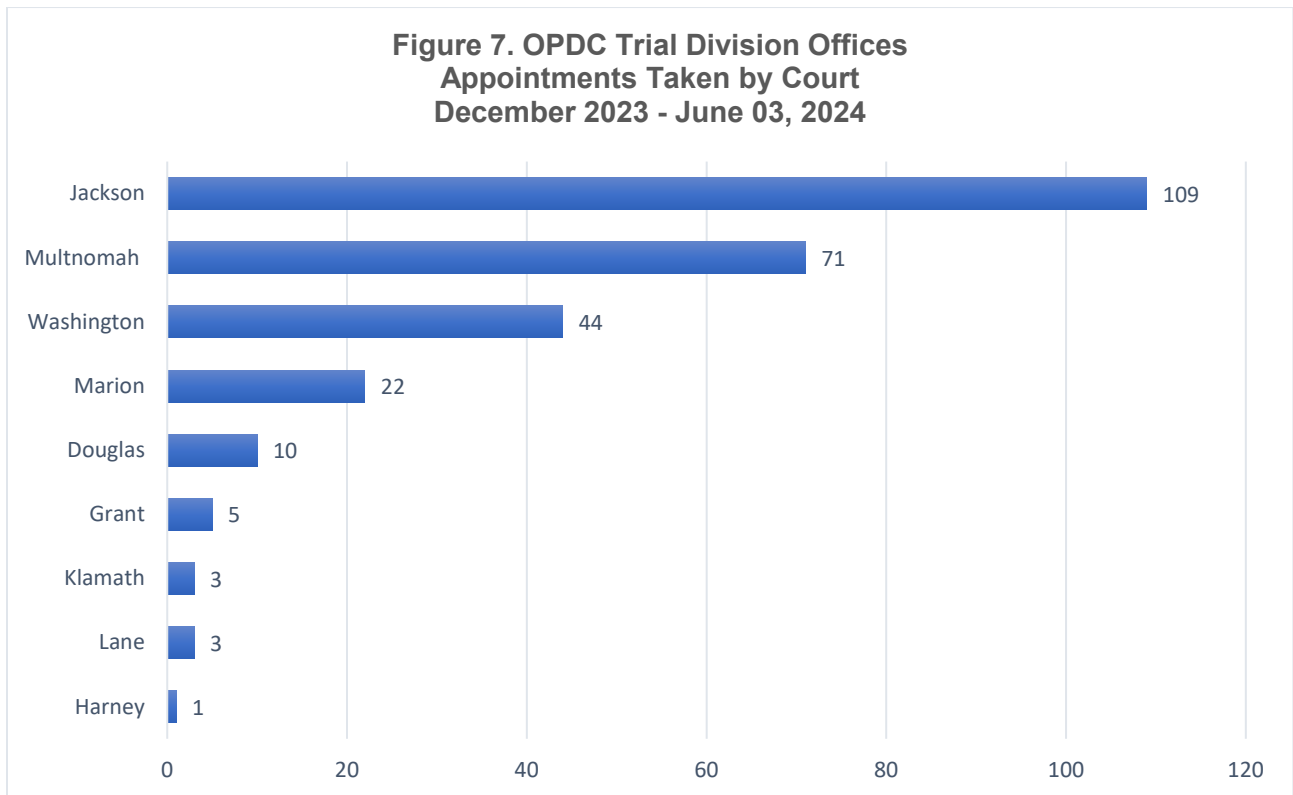
Source: OJD Odyssey Data (eCourt).

OPDC Trial Division Offices

Figure 6 and Figure 7 show the **268** new appointments taken since December 2023 by nine attorneys in the OPDC Trial Division regional offices servicing the Northwest and Southern Oregon regions.



Source: OJD Odyssey Data (eCourt).



Source: OJD Odyssey Data (eCourt).

Data Share Update

In May 2024, OPDC was provided direct access to the OJD Data Warehouse which includes OJD court data on attorney appointments, unrepresented data, and public defense caseloads.

OPDC can start using this court data and the data warehouse databases to:

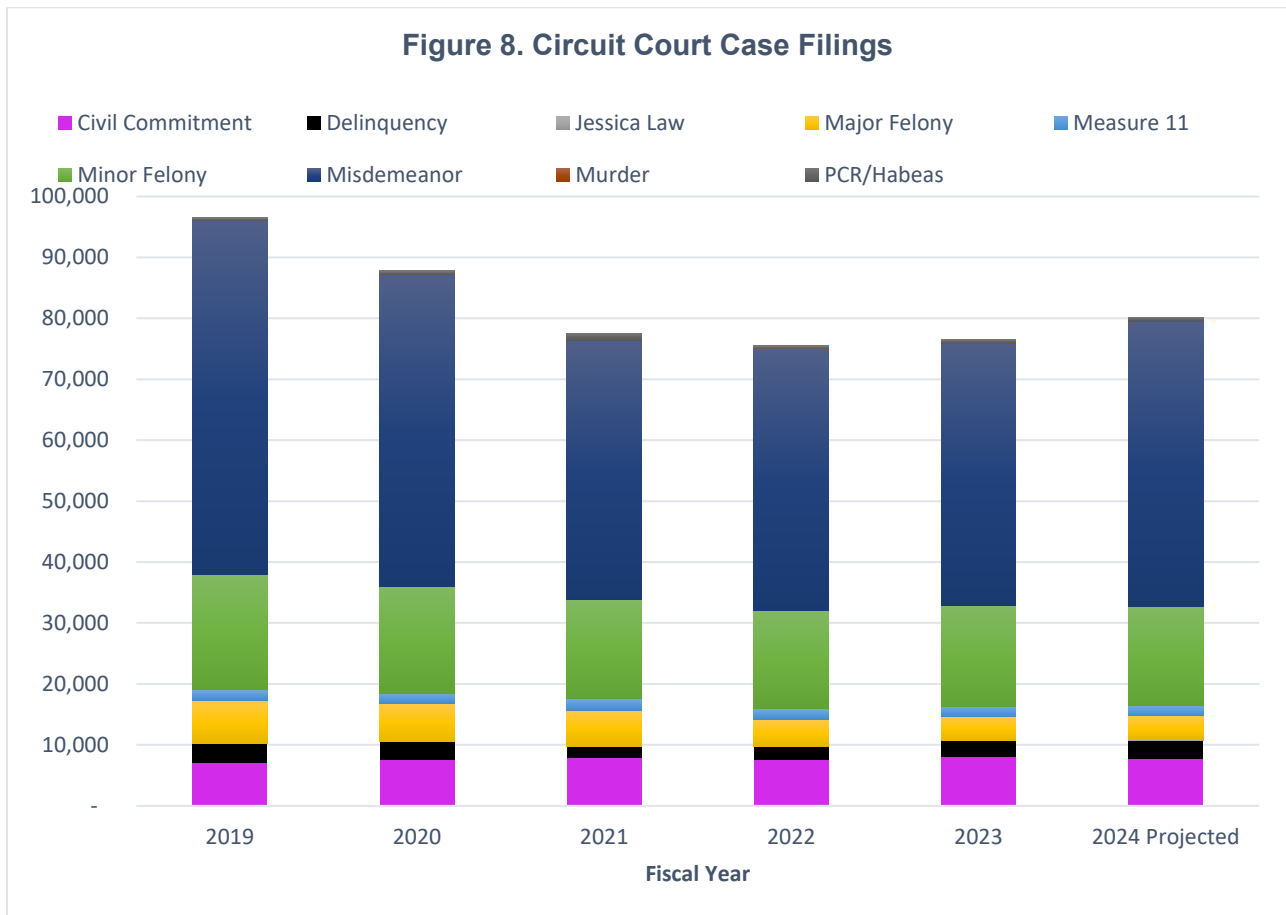
- verify attorney MAC utilization and self-reported attorney caseload reports by reconciling it with court data,
- streamline attorney appointments for unrepresented individuals through automated comparisons of attorney capacity, attorney qualification, and prioritize unrepresented cases using OPDC's new intake form/process,
- identify unrepresented individuals who have multiple cases in the same county (half of total unrepresented caseload) to consolidate attorney appointments and work down the unrepresented caseload faster,
- flag attorney appointments in warrant status for more than 180 days and request that attorneys close those appointments and notify the court,
- track caseload trends that impact public defense providers,
- track open public defense caseloads over time, and
- compare qualitative outcomes by provider (case outcomes, time to disposition, motions filed, cases with multiple attorney substitutions, time to trial, trial rates and trial outcomes).

OPDC has started sharing data requested by OJD regarding updated contract and hourly attorney start and end dates (prorated MAC), attorney qualifications, attorney caseload reports, and the Temporary Hourly Increase Program (THIP) case list.

Circuit Court Case Filings

Figure 8 shows circuit court case filings since fiscal year 2019 by case type.

- Filings remain more than 20% below 2019 levels but started to increase in fiscal year 2023.
- In fiscal year 2023, case filings increased statewide by 1.4% over the prior year. In fiscal year 2024, OJD projects case filings will increase by another 5%, due primarily to increases in misdemeanor filings. Minor decreases are projected in filings for major and minor felonies, Measure 11, and civil commitment cases.

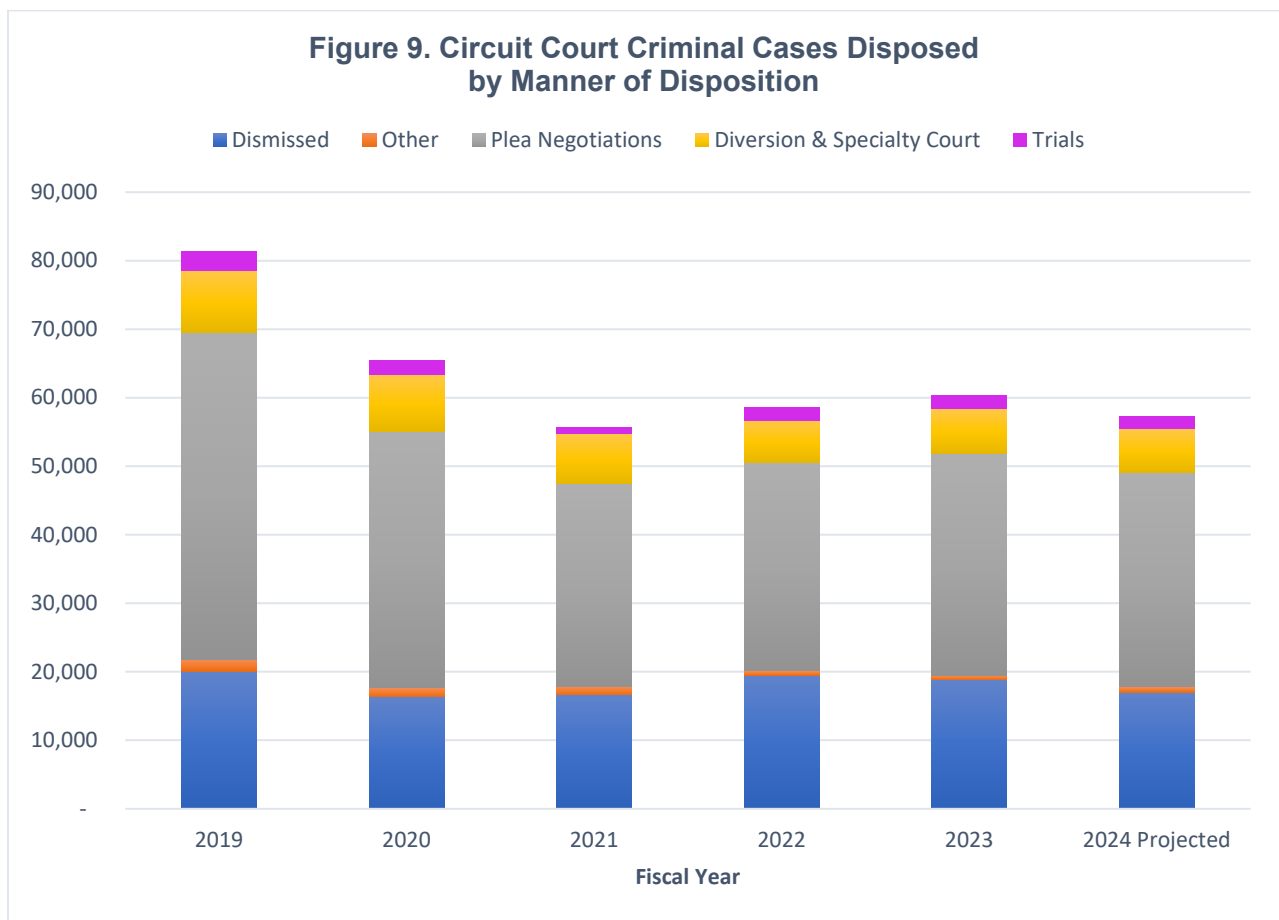


Source: OJD Odyssey Data (eCourt).

Case Dispositions

Figure 9 shows case dispositions since fiscal year 2019 by the manner of disposition.

- Like filings, case dispositions are well below 2019 levels.
- Case dispositions increased by almost 3% in fiscal year 2023 over the prior year.
- In fiscal year 2024, OJD projects that case dispositions will decrease by 5% primarily due to delays caused by the unrepresented crisis.
- Plea agreements are declining, while trial rates, diversions, and treatment court programs remained unchanged compared to 2019.



Local Court Spotlight

Intake Form Pilot Program Update

OPDC launched a pilot program May 1, 2024, where pilot courts submit an online form to request counsel be appointed to an in-custody unrepresented person, focusing on cases that qualify for the Temporary Hourly Increase Program (THIP). The pilot courts are circuit courts in Coos, Curry, Linn, and Douglas counties. All courts report the form is simple to use and the process is working well. One court noted a concern that court staff cannot update the form if a defendant is released from custody after the form is submitted but prior to an attorney being assigned. OJD and OPDC staff are collaborating so OPDC can use the data warehouse to more efficiently prioritize attorney assignments and ensure defendants are represented on all their open cases.

Jackson County Circuit Court

Jackson County continues to have the highest number of unrepresented persons in the state, which has been steadily increasing since October 2023 despite an increase in the number of attorneys and fewer cases being filed. The local public defense office and consortium typically meet or surpass their monthly MAC limits about half-way through the month.

Jackson has several dockets to help cases proceed more efficiently, including early resolution conferences, settlement conferences, and a rapid aid-and-assist docket. They have also held several special settlement dockets for criminal traffic offenses, such as diversion-eligible Driving Under the Influence cases. The impact of these dockets and their success, though, is limited based on whether there is a defense attorney available. For instance, defense attorneys are frequently in the best position to identify persons struggling with mental health who would be appropriate for the rapid aid-and-assist docket.

In addition to in-custody unrepresented persons, the court is particularly concerned about out-of-custody probation violations and animal abuse cases. As of May 21, 2024, there are 117 probation violation cases on the unrepresented list, with 36 cases unrepresented for more than 180 days. These include domestic violence cases where the alleged probation violation is having contact with the victim. Other cases of concern are felony cases where the defendant is on a downward departure and facing significant prison time.

Unrepresented persons charged with animal abuse incur other collateral consequences due to delays appointing counsel. These defendants typically have their animals taken from them and are entitled to a forfeiture hearing involving the animal. Since these defendants are out of custody and lower on the priority list, they are often without counsel at their forfeiture hearings. Since the case is unable to move forward, the animals stay with Animal Control, incurring thousands of dollars in expenses which either (1) the county will be responsible to pay, or (2) defendants will pay and incur additional costs because the time to disposition was extended for lack of an attorney.