



Oregon Judicial Department

Unrepresented Crisis – July 2024 Update

Key Insights

[Unrepresented Trends](#)

The total number of unrepresented individuals decreased slightly from May to June; however, the number of unrepresented misdemeanor cases continues to rise. ([Figure 1](#)). Deschutes County continues to experience sharp growth in its unrepresented population ([Figure 2](#)). Daily updates are available at the OJD [Unrepresented Dashboard](#) web page.

[Betschart Federal Court Order](#)

The Ninth Circuit's appellate mandate in *Betschart et al. v. Garrett et al.*, issued on June 24, 2024, and U.S. District Judge McShane's November 14, 2023 injunction is in effect. Going forward, any state defendant who has been in custody unrepresented for seven days after their initial appearance and for whom an exception to the seven-day timeline does not apply must be released from custody. In response, OJD modified its Unrepresented Individuals data dashboard, displaying cases labeled as Potentially Subject To or Not Subject to Betschart. While the data on the dashboard should not be used to precisely identify the individuals and cases to whom the Betschart order applies, it is intended to be a tool to assist OPDC, the courts, policymakers, and the public.

OPDC staff have been able to find attorneys for many defendants subject to this order before the release timeline was reached. OJD is working with OPDC staff to disseminate and try to automate the Nintex forms used to request priority appointments.

[Average Time Unrepresented](#)

The amount of time people in custody are unrepresented has dropped to an average of 10 days. ([Figure 3](#)). 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.

[Unrepresented by County](#)

The crisis continues to be most severe in Jackson, Marion, Multnomah, Washington, and Douglas counties and is growing more severe in Clatsop, Deschutes, Coos, and Klamath counties ([Figure 4](#)).

[OPDC Trial Division Offices](#)

The OPDC Trial Division Offices continue to ramp up. Nine attorneys have taken 268 appointments since December 2023, primarily in Jackson and Multnomah counties and on misdemeanor and minor felony cases ([Figure 5](#) and [Figure 6](#)).

[Data Share Update](#)

In June 2024, OPDC transitioned from using OJD-created dashboards for attorney appointments, unrepresented data, and public defense caseloads to directly accessing the data from the OJD Data Warehouse. The OJD and OPDC data teams continue to meet biweekly to collaborate on enhancing data quality and creating efficiencies.

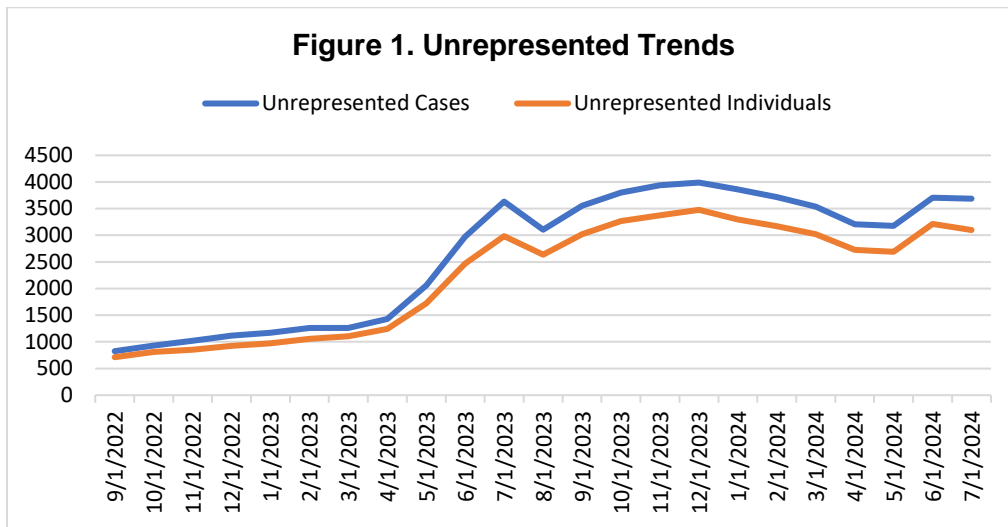
[Local Court Spotlights](#)

Multnomah County has consistently had one of the more severe crises in the state, and one of the longest, starting in January 2022. While the number of in-custody unrepresented individuals has decreased, the court continues to struggle with a growing number of out-of-custody unrepresented cases. The vast majority of unrepresented out-of-custody cases in Multnomah County are felony level, and the average time it takes to assign an attorney to those cases has been increasing since September 2022.

Unrepresented Trends

Figure 1 shows the number of unrepresented individuals has decreased slightly. While there are fewer unrepresented felony cases and non-criminal cases, the number of unrepresented misdemeanor cases continues to climb.

- 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.
- As of 7/1/2024, there were 3,097 unrepresented individuals with 3,685 unrepresented cases:
 - 2,217 misdemeanors,
 - 1,414 felonies, and
 - 54 non-criminal cases.

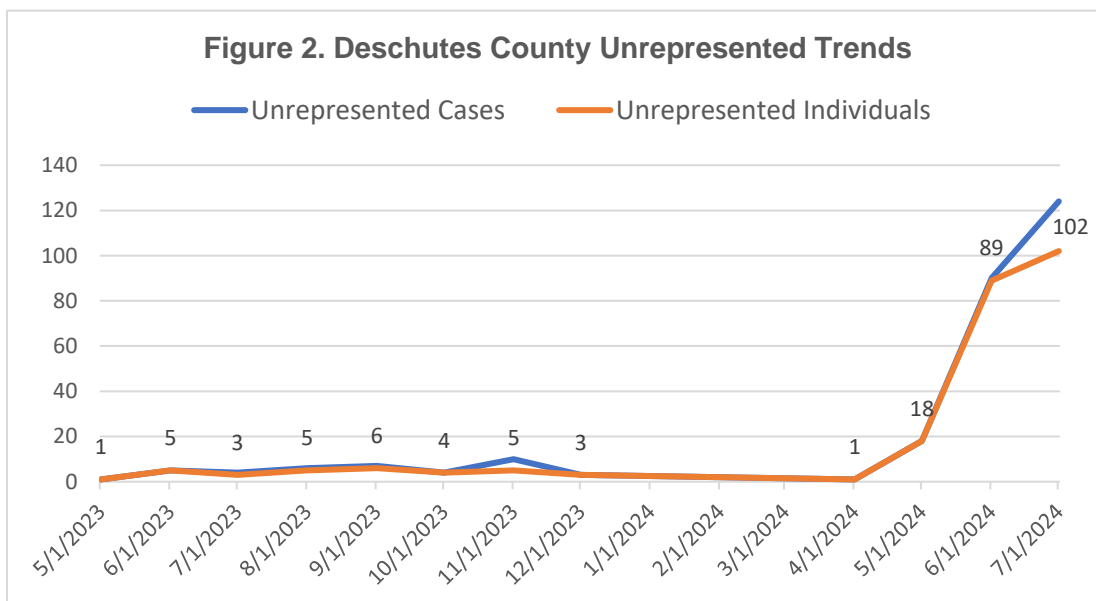


Source: OJD Odyssey Data (eCourt).

Deschutes County lost six public defense attorneys in May and now has a spike in its unrepresented population. Four of the vacant positions have since been filled; however, the new attorneys are only qualified to take misdemeanor cases.

As of 7/1/2024, Deschutes County had 102 unrepresented individuals with 124 unrepresented cases:

- 87 misdemeanors, and
- 37 felonies.

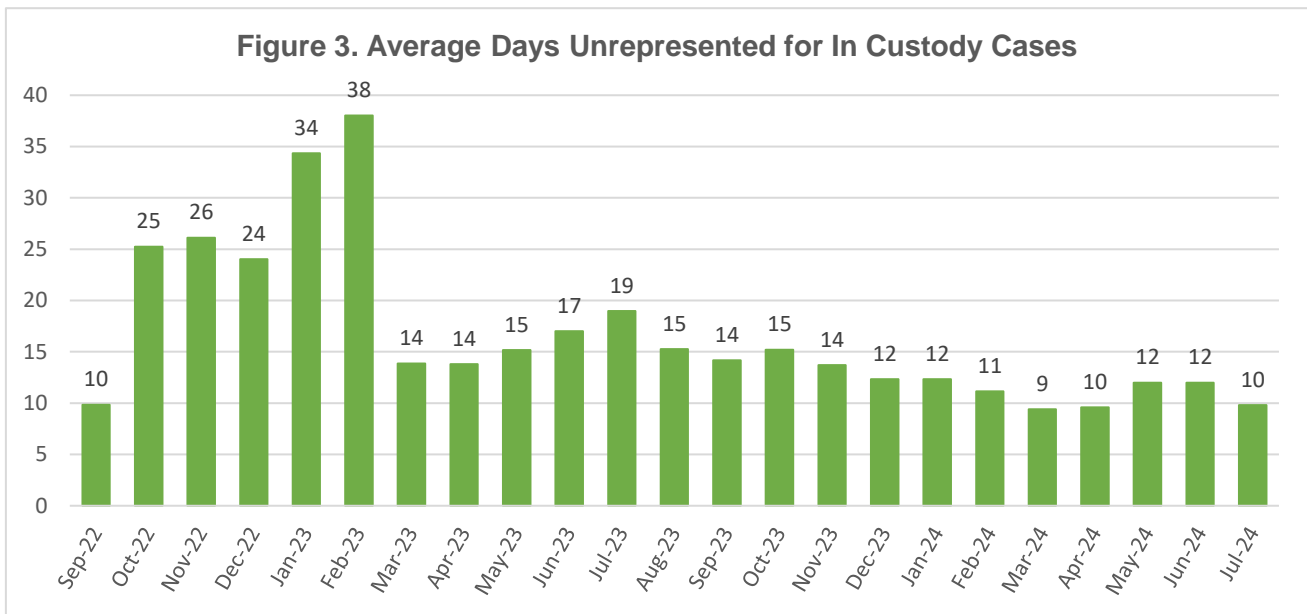


Source: OJD Odyssey Data (eCourt).

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. There are 94 cases that have been on the unrepresented list for at least six months and the defendant has not failed to appear in the case.

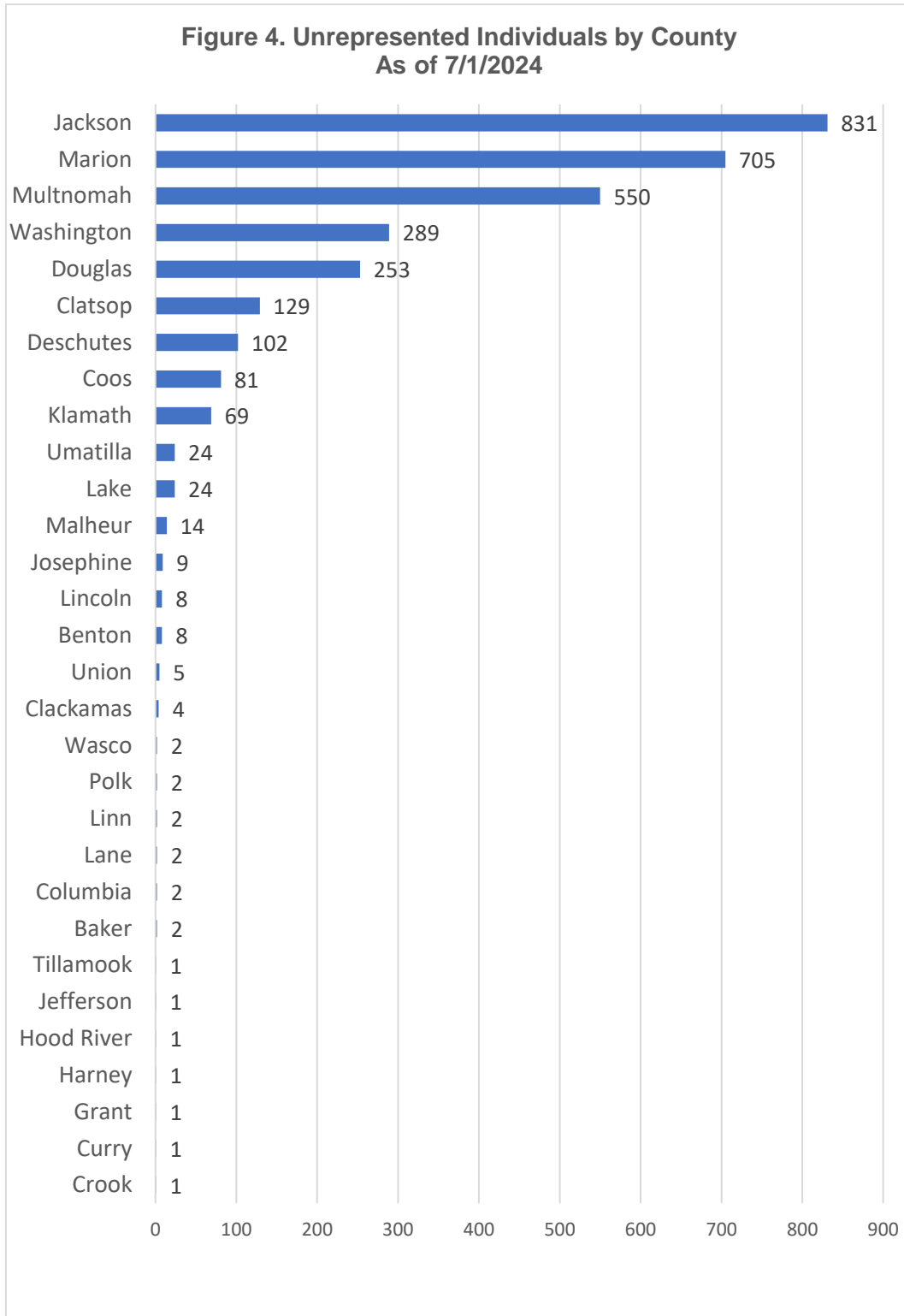
Figure 3 shows that the average time an unrepresented person has waited in custody before an attorney has been appointed has improved since February 2023. Because the *Betschart* order went into effect on June 24, 2024, it is too early to identify trends resulting from *Betschart* on the average time an unrepresented person waits in custody for counsel to be appointed.



Source: OJD Odyssey Data (eCourt).

Unrepresented by County

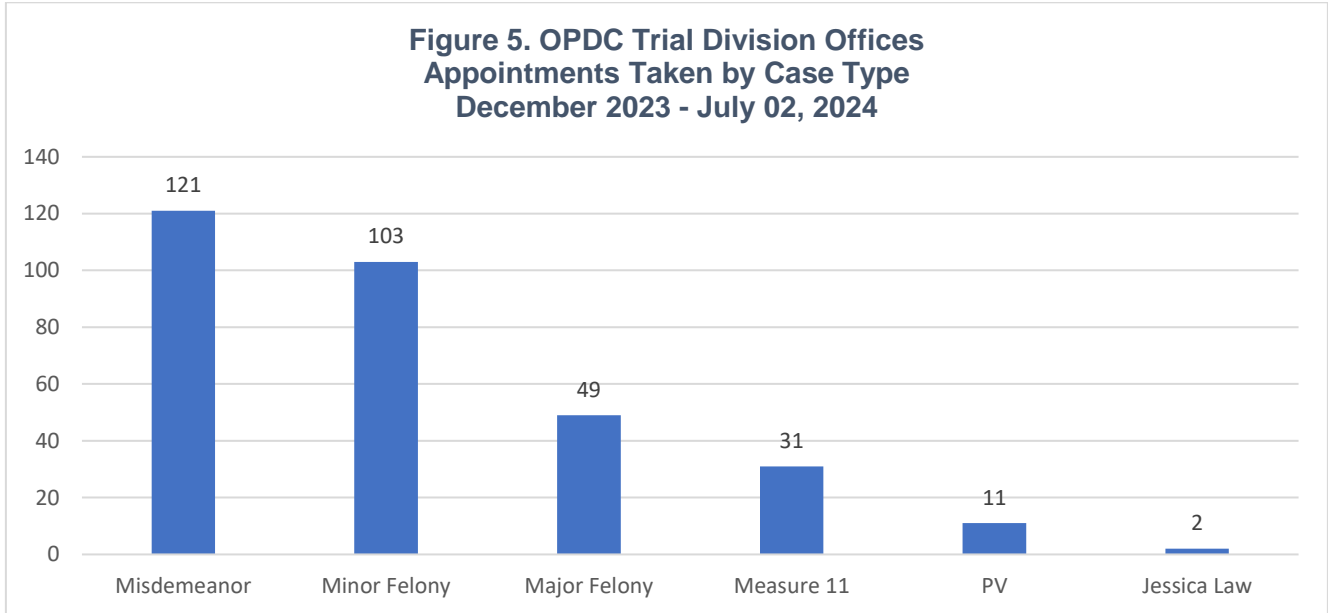
Figure 4 shows the number of unrepresented individuals by county. The OPDC regional trial division offices are primarily taking appointments in Jackson and Multnomah counties on misdemeanor and minor felony cases. While some counties have seen a decrease in the number of unrepresented persons since June 1, 2024, other counties have seen an increase. For example, Coos County had 36 unrepresented individuals on June 1, 2024, and as of July 1 has 81 unrepresented individuals. The Coos County public defender office recently lost four attorneys.



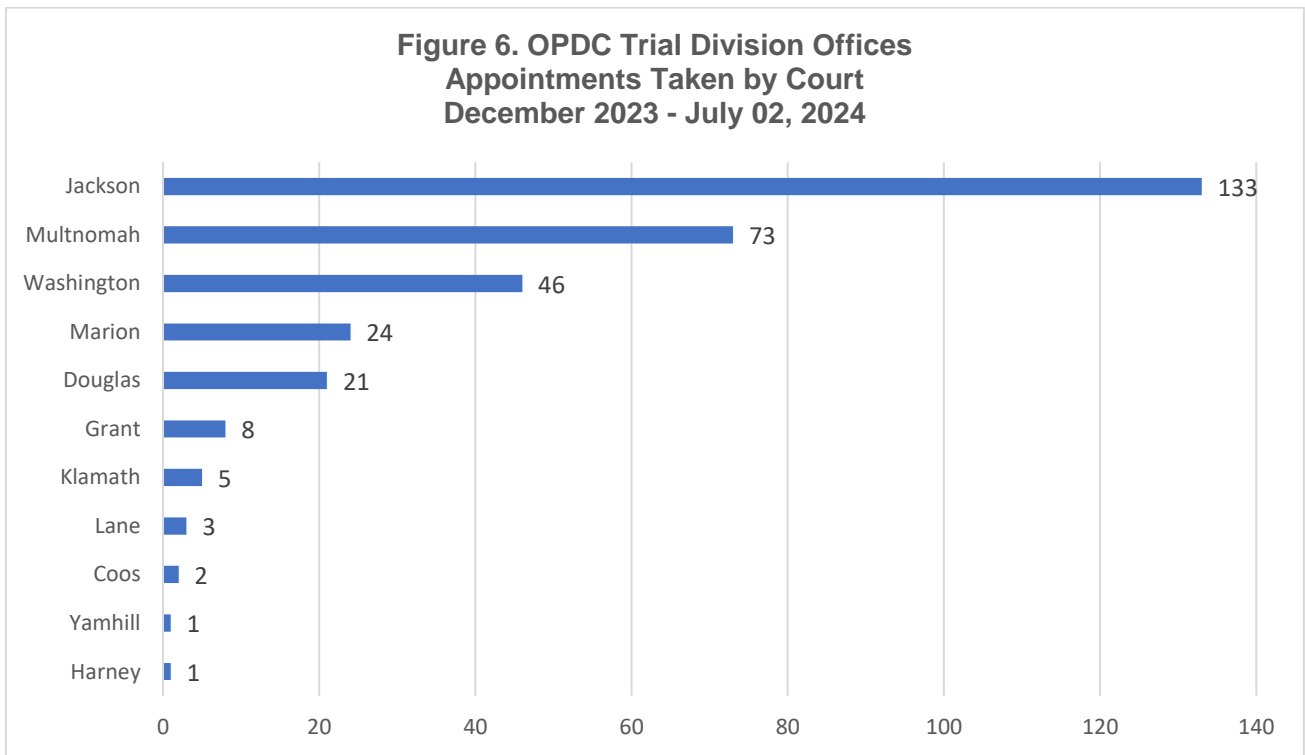
Source: OJD Odyssey Data (eCourt).

OPDC Trial Division Offices

Figure 5 and Figure 6 show the **268** new appointments taken since the first regional office opened in December 2023. The nine attorneys in the OPDC Trial Division regional offices service the Northwest and Southern Oregon regions, and Marion County. Trial division attorneys have also taken some cases outside of their regions, including cases subject to the *Betschart* order.



Source: OJD Odyssey Data (eCourt).



Source: OJD Odyssey Data (eCourt).

Data Share Update

In June 2024, OPDC transitioned from using OJD created dashboards for attorney appointments, unrepresented data, and public defense caseloads to directly accessing the data from the OJD Data Warehouse. OJD and OPDC continue to meet biweekly to collaborate on enhancing data quality and creating efficiencies.

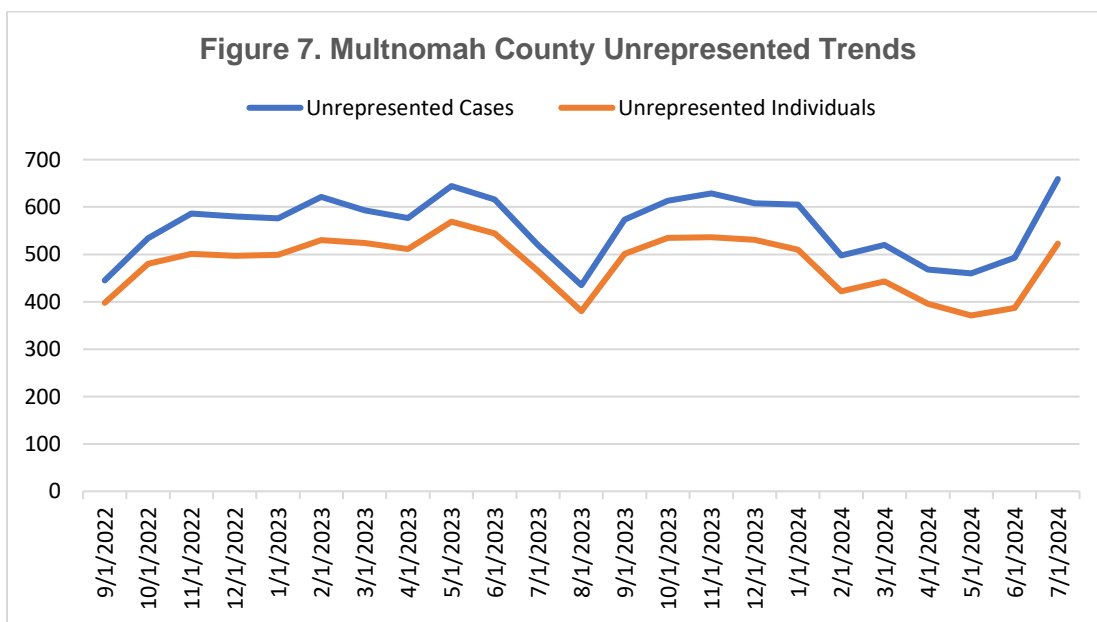
Local Court Spotlight

Multnomah Unrepresented Trends

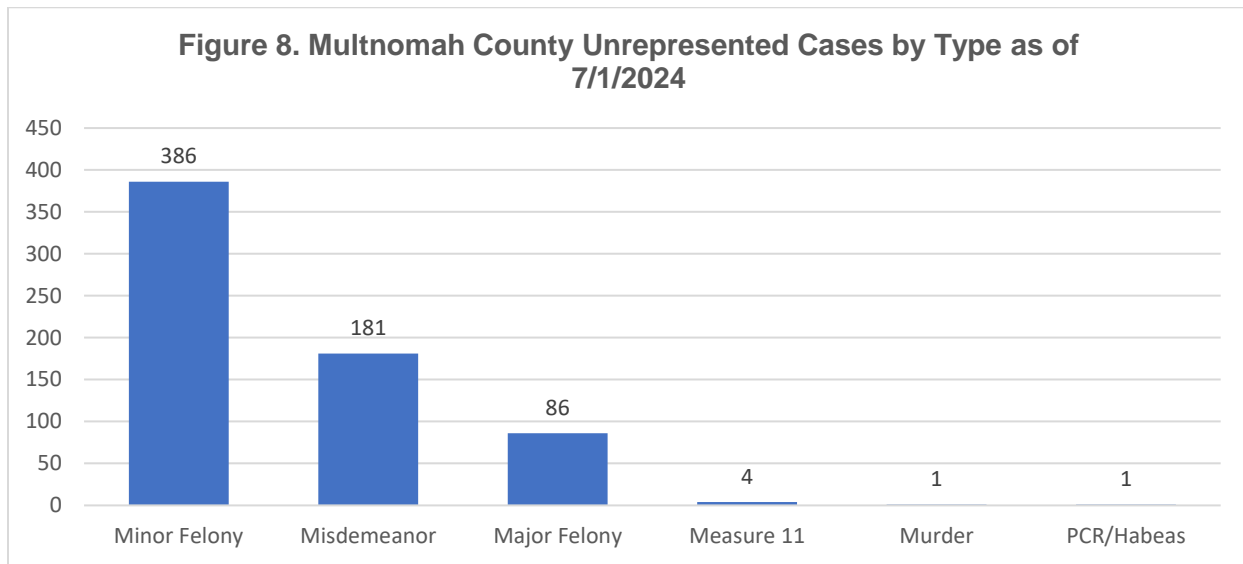
In January 2022, two public defense firms in Multnomah County announced they would temporarily cease taking appointments on felony cases. In April 2022, the firms also ceased taking misdemeanor appointments. At that time there were more than 600 unrepresented individuals. Since then, the court has taken numerous actions to address the crisis, including restructuring dockets, cross-training and adding new OJD staff, bringing in senior (retired) judges for settlement conferences, increasing the use of remote appearances, and expanding resolution dockets.

The court has dismissed some cases when an unrepresented individual has appeared numerous times with no attorney available to appoint. In many instances, the Multnomah County District Attorney’s office brought those cases back to a grand jury, secured an indictment, and refiled criminal charges. A case may have come off the unrepresented list, and later be added back if charges are refiled and no attorney is available to be appointed.

As of 7/1/2024, Multnomah County had 523 unrepresented individuals with 659 unrepresented cases, consisting of 477 felonies, 181 misdemeanors, and 1 PCR/Habeas case. This contrasts with the statewide trend where most unrepresented cases are misdemeanors.

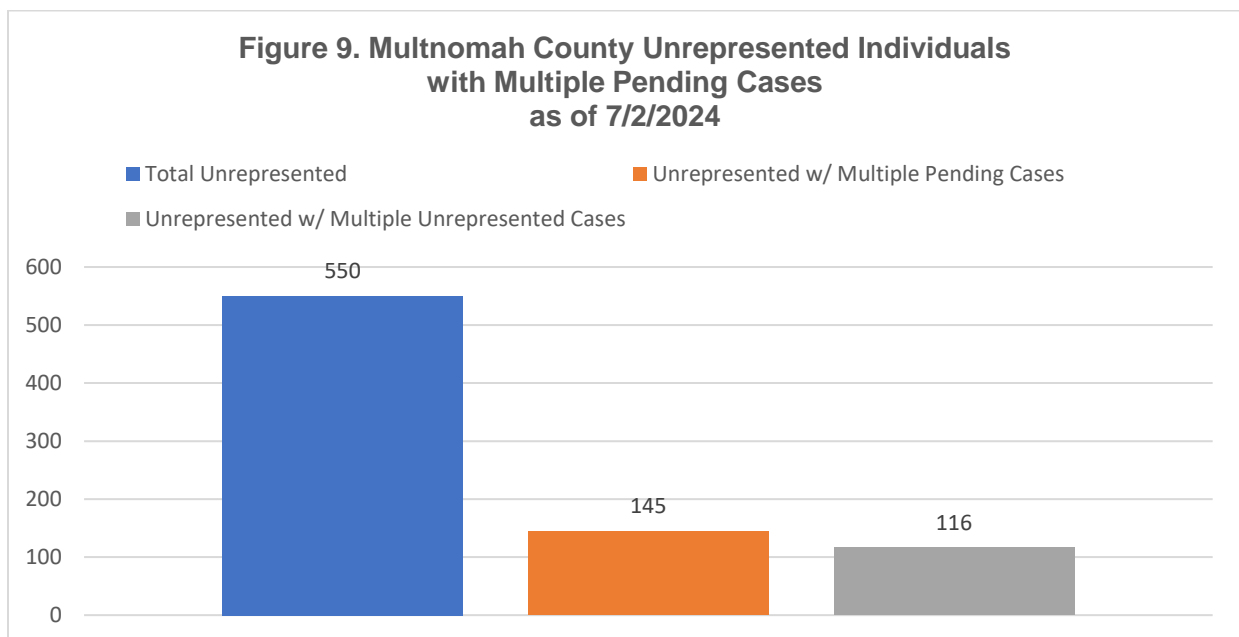


Source: OJD Odyssey Data (eCourt).



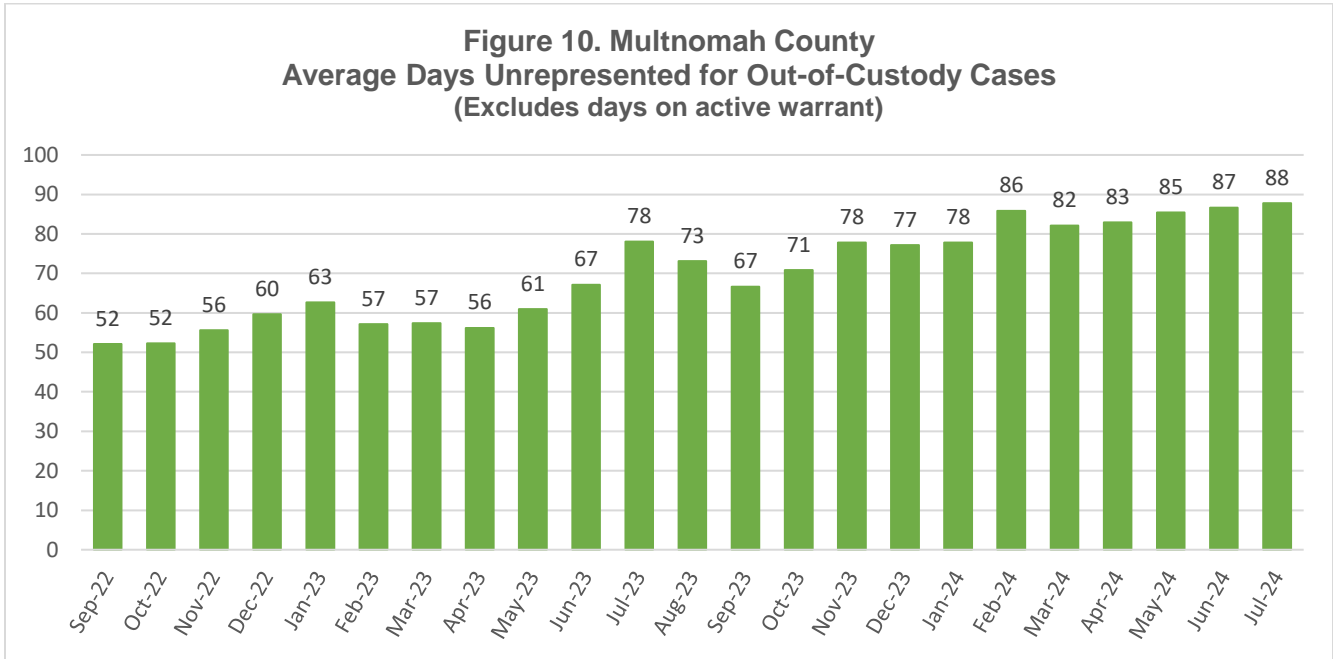
Source: OJD Odyssey Data (eCourt).

Figure 9 shows the number of unrepresented persons with multiple pending cases and the number of persons with multiple unrepresented cases. At times a defendant with multiple different case types will be represented on one case but not another. For instance, a defendant may have an attorney on a misdemeanor case but not on a separate minor felony case. The court also has noticed occasions when a defendant has multiple attorneys from the same office on different cases. For instance, one attorney will be assigned to a minor felony case and a different attorney will be assigned to a separate misdemeanor case for the same defendant.

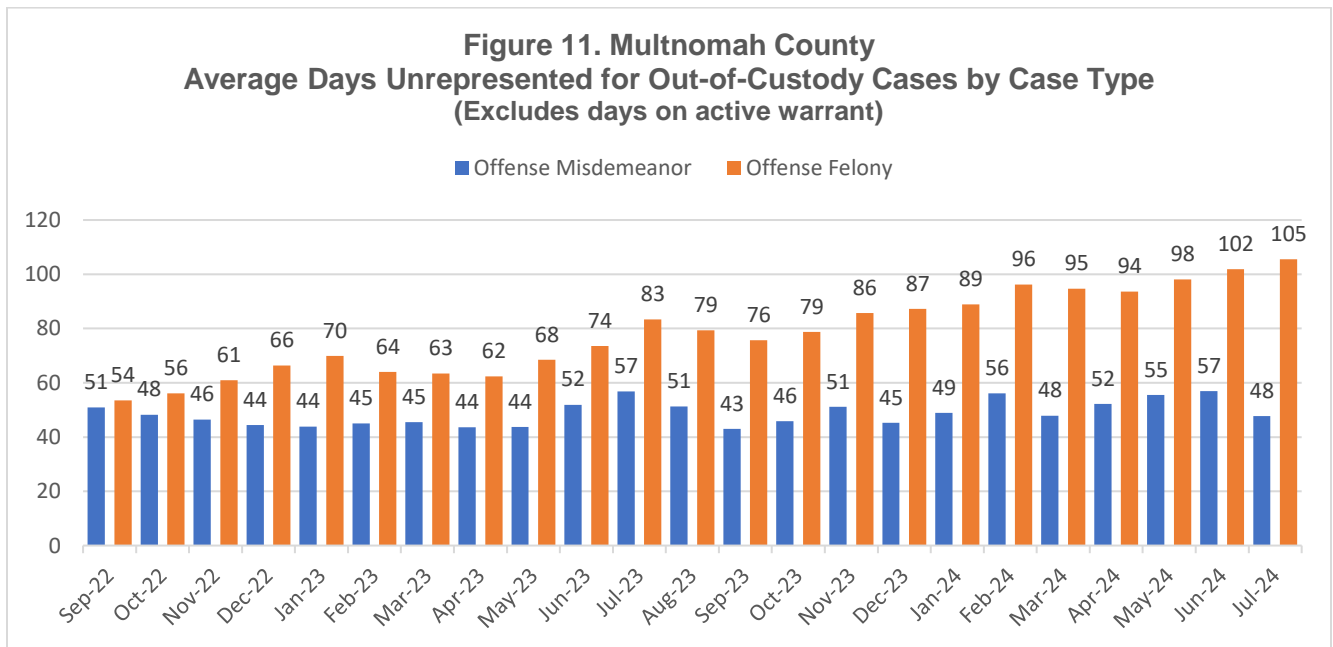


Source: OJD Odyssey Data (eCourt).

Figures 10 and 11 show the average time for an attorney to be assigned to an out-of-custody case in Multnomah County, excluding time in active warrant status. The average time for an out-of-custody felony case to be assigned an attorney has steadily increased since September 2022, and has more than doubled to a current average of three-and-a-half months before an attorney is assigned. The time for attorney appointments in misdemeanor cases has remained comparatively stable during the same period.



Source: OJD Odyssey Data (eCourt).



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