



# Oregon Public Defense Caseload Forecast

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## Background

The Office of Economic Analysis (OEA) produces the semi-annual Oregon Public Defense Caseload Forecast which provides projections of both the populations eligible for public defense and the cases where public defense can and will be assigned. The forecast delineates these populations and cases by circuit versus appellate court.

Oregon Revised Statute 281 section 7a authorizes the Department of Administrative Services to produce the forecast. The forecast will be published April 15<sup>th</sup> and October 15<sup>th</sup> of each year. State agencies, in particular the Office of Public Defense Commission (OPDC) and the Oregon Criminal Justice Commission (CJC), are mandated to use the forecast for budgeting and policy development where public defense is concerned.

Currently there is no official advisory committee for the forecast, however our office has been working collaboratively with partner agencies in gathering and understanding caseload data, and in developing the forecast. Our office is working on creating an official advisory committee. In general, advice from the committee forms the basis for forecast assumptions regarding policy and practices in the public defense system and the impact of law and policy changes on public defense assignment and caseloads. Committee members bring to the forecast process decades of diverse experience in the criminal justice system. They meet prior to each forecast release to discuss forecast-related issues such as trends in crime, potential impact of new laws, changes in criminal justice practices, and to advise technical aspects of the forecast process.

The general forecast process, the publication of the forecast, and the technical aspects of developing the forecast, are managed by the Office of Economic Analysis, in partnership with the Criminal Justice Commission, and with substantial assistance from both the Oregon Public Defense Commission and the Oregon Judicial Department.

For more information or questions regarding the forecast please use the following contact information:

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## Forecast Summary

This marks our office’s first forecast for public defense caseloads and eligible adults and juveniles. Monthly forecasts are produced across 13 case types. Each case type is also available by fiscal year at the county level. Moving forward our office will produce this forecast twice a year, and incorporate the latest case filing data, and broader impacts experienced, and expected in the criminal justice system.

Based on our office’s other criminal justice forecasts, we know there is a broad disconnect in recent years when it comes to measures of underlying criminal activity, law enforcement and prosecutorial decisions, judicial caseloads and adjudications, and ultimately the number of intakes to prison or close custody. One key issue, which has been identified by both our prison and youth authority advisory groups, is public defense, and the lack of enough public defenders to adjudicate cases. Note that this new forecast is only for the number of caseloads and eligible adults and juveniles. This is not a forecast of the number of public defenders needed to meet these caseloads. For some individual cases, multiple public defenders will work on it at different points in time, and the like.

Overall, the caseload forecasts call for modest growth in the years ahead. This is in part based on expectations of underlying criminal activity, and the state’s population. There are some exceptions. For example, Adult-Felony, Adult-Misdemeanor, and Adult-Probation Violation caseloads are expected to increase more rapidly due to the impacts of House Bill 4002 (2024) which reformed many aspects of Ballot Measure 110 (2020). On the other side, many juvenile caseloads are expected to decline later this decade given Oregon’s overall youth population is declining.

### Cases Eligible for Court-Appointed Counsel

April 2024 Forecast

	Actuals						Forecast							
	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
<b>Adult</b>														
Felony	26,550	24,648	21,922	20,286	19,032	19,934	20,125	21,956	22,750	23,405	23,863	24,101	24,207	24,285
Misdemeanors	42,483	42,842	35,114	30,303	30,951	32,407	33,872	38,521	44,918	49,005	50,896	51,698	52,104	52,690
Treatment Court				691	727	811	710	706	705	709	714	718	723	728
Probation Violation	22,116	22,659	18,718	13,419	13,469	14,615	14,295	14,315	15,081	18,912	21,744	22,881	23,270	23,384
Appellate	1,458	1,801	1,463	974	1,339	1,447	1,487	1,522	1,537	1,546	1,556	1,566	1,576	1,587
Post-Conviction Relief	386	408	385	806	372	475	505	611	623	624	625	626	626	625
Habeas Corpus	109	130	260	896	222	209	222	296	298	299	299	299	299	299
Civil Commitment	1,408	1,461	1,746	1,688	1,650	1,791	1,934	1,961	1,994	2,037	2,079	2,123	2,166	2,210
<b>Juvenile</b>														
Dependency	15,481	13,779	11,597	9,526	8,388	8,124	7,864	7,922	7,888	7,853	7,777	7,685	7,597	7,493
Delinquency*	3,503	3,343	3,179	2,085	2,340	2,721	3,106	3,290	3,358	3,338	3,322	3,291	3,251	3,204
Probation Violation	2,799	2,821	2,475	1,717	1,615	1,872	1,924	1,966	1,978	1,967	1,956	1,937	1,914	1,886
Appellate	378	362	320	368	341	281	288	299	298	297	295	292	288	284
Treatment Court				71	89	113	138	151	155	154	153	152	150	148

\* includes Measure 11, Murder, and All Other

Source: Oregon Judicial Department, Oregon Office of Economic Analysis

The outlook is highly uncertain not just due to this being our office’s first forecast, but also due to the potential for the criminal justice system to deviate substantially from current assumptions. Changes

related to arrests, cases filed, cases adjudicated, which itself is in part a function of the number of public defenders, eligibility requirements, and the like will impact the forecast. Additional risks include the actual impact of policy or administrative changes differing from expectations. Our office will continue to monitor the latest data, in partnership with other state agencies and advisors, to produce this forecast every six months.

## Forecast Methodology

### Data Sources

Case data is provided by the Oregon Judicial Department. This data includes individual records of cases filed from 2017 through March 2024 including by case type and by court (county). The data also include whether an individual was eligible for public counsel.

Criminal justice data from our office’s other forecasts<sup>1</sup> are also used. This includes underlying measures of criminal activity from national and local sources, in addition to information on prison inmates and youths in close custody.

Our office’s Oregon demographic and population forecast<sup>2</sup> data are also used in the forecasting process.

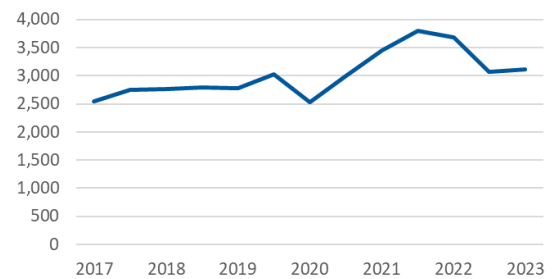
### Methodology

Each case type is forecasted individually. The total number of cases for each type is forecasted using time series methodologies that incorporate recent trends, criminal justice system expectations, and Oregon’s adult or juvenile population forecast. Near-term forecasts rely heavily on recent case filing trends, while long-term forecasts are tied closely to the population outlook.

In the years ahead, Oregon’s adult population is forecasted to grow, but at a slower pace than the state has become accustomed to in recent decades. Oregon’s youth population is forecasted to decline moderately. The state has had a declining birth rate in recent decades, resulting in fewer youth in the

### Oregon Violent Crime

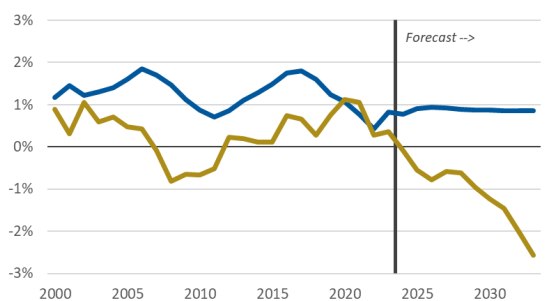
FBI Uniform Crime Reporting (UCR) for cities over 100,000 population



Latest Data: 2023 H1 (Jan-Jun) | Source: FBI, Oregon Office of Economic Analysis

### Oregon Population Forecast

Annual percent change in the Adult 18+ and Juvenile (12-17) population



Latest Data: 2023 | Source: Oregon Office of Economic Analysis

<sup>1</sup> <https://www.oregon.gov/das/oea/Pages/forecastcorrections.aspx>

<sup>2</sup> <https://www.oregon.gov/das/oea/Pages/forecastdemographic.aspx>

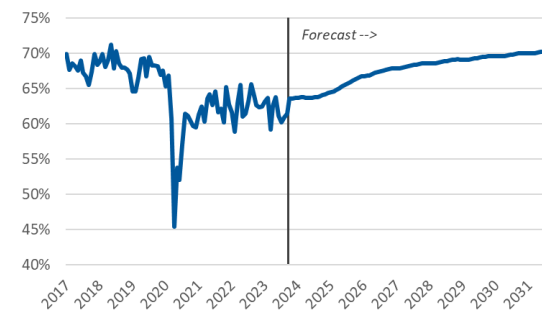
years ahead. These broad demographic trends impact the size of the population that could potentially commit a crime, be charged with a crime, and ultimately be eligible for public counsel.

Given this forecast is for the number of cases eligible for public defenders and not just the total number of cases, eligibility is a key consideration. Given available data, for some case types all persons charged with a crime are eligible. However, for some case types, only a percentage the cases are eligible to receive a court appointed public defender. Based on historical patterns, an eligibility percentage forecast is created, and then applied to the total case forecast to create the eligible case forecast.

The Adult-Misdemeanor eligibility forecast is shown in the chart on the right as an example. Eligibility is lower in recent years compared to pre-pandemic. There are a few possibilities why this may be the case. Persons charged today may not meet the criteria, or the criteria may be applied more stringently today (or less stringently in the past). The mix of the underlying crimes may result in a change in the topline misdemeanor eligibility. Additionally, eligibility is only known when a person charged with a crime appears. It may take some time, months, potentially even years, for some of these cases' eligibility to be determined.

### Misdemeanor Eligibility

*Percent of all new adult misdemeanor cases eligible for public defense*



Moving forward, the eligibility forecast increases for two reasons. One is the expected return to normal following the pandemic, when we know there has been a slowdown in the criminal justice system. Two is due to the increases in misdemeanor cases expected from HB 4002. Historically, drug-related misdemeanor cases have a higher eligibility share than other misdemeanor cases. This is seen in the data, and mentioned by our advisors in our preliminary forecast discussions. As new drug-related misdemeanors account for a larger share of cases, the overall eligibility share rises as a result. As actual case and eligibility data becomes available, our office will adjust each eligibility forecast accordingly.

County projections by case type by fiscal year are also produced. These projections are not individual case type forecasts made county by county based on each county's data and trends. These projections use the statewide eligible case forecasts by type, and recent filings by court (county) by type. For each of the 13 case types, county shares of the statewide totals are calculated for each fiscal year. The projections use an exponential smoothing process that weights the most recent year patterns more heavily than two years ago patterns, which are weighted more than three years ago patterns and so on. Exponential smoothing is a time series forecasting technique, and it allows changes in county patterns to be incorporated into the outlook. However this is really only so far as county changes are seen in the actual data. To the extent that future case patterns across the state will differ significantly from the

recent past, these county projections will be less accurate for planning purposes. Future work will include a more detailed assessment of these county projections.

Similarly, for both Adult-Felony and Adult-Appeals, additional projections are made to provide more detail for planning and budgeting purposes. Specifically, Adult-Felony case projections are available for minor felonies, major felonies, Measure 11 crimes, murder, and Jessica's Law. Adult-Appeal case projections are available based on the case type that was appealed. Of particular importance for planning and budgeting purposes is Civil Commitment appeals. These projections are developed using the same exponential smoothing process as the county cases, but instead of basing the projections on recent county filings, they are based on the underlying details of the Adult-Felony and Adult-Appeals filings in recent years. The same caveat applies that to the extent future trends differ significantly from the recent past, these more detailed case type projections will be less accurate for planning purposes

## **Future Work**

This is our office's first Oregon Public Defense Caseload forecast. As with all forecasts, it remains a work in progress. As our office continues to work with our partner agencies, we will better understand the data, and the needs for future planning. The forecast itself, and the forecast process will evolve over time. Already there are a few items on the to-do list.

First is adding additional case types that help with the budgeting and planning process. Both Civil Guardianships, and Psychiatric Review Board representation have been identified with our advisors, and our office will work to include in future forecasts. Additional case types may be identified and incorporated in future forecasts as well.

Second is further refinement on the projections. If our office and our advisors are able to help identify local trends and incorporate them into the county projections, or should we be better able to identify ongoing shifts in crime times, or appeal patterns, that will also allow for better planning in the years ahead. Additional projections for other case types, such as probation violation, may be of use as well.

Finally, ongoing discussions and research will better inform future forecasts as well. In particular, the impacts of failure to appear is noted across all of our office's criminal justice forecasts. Failure to appear can impact the total number of cases, and eligibility, and therefore have implications for budgeting and planning.



## Appendix

### Forecast Values

A more detailed spreadsheet is available in Excel spreadsheet format from the Office of Economic Analysis web site, along with a copy of this report.

<https://www.oregon.gov/das/oea/Pages/Public-defense-caseload-forecast.aspx>