

Oregon Judicial Department
Indigent Defense Budget Reduction Plan: Fact Sheet

January 10, 2003

Note: On January 10, 2003, the legislative Emergency Board restored \$5 million dollars to the indigent defense appropriation. As a result, the Chief Justice has been able to delay the implementation date of this plan to March 1, 2003.

- ❑ The **key components** of the plan necessary to address the remaining \$10.1 million projected deficit in the 2001-2003 Indigent Defense Account are:
 - prioritization based on public safety;
 - preservation of cost-effective programs for as long as possible (for example, Early Disposition Programs);
 - no impact on any ***pending*** caseloads; and
 - prioritization consistent with that adopted by the Judicial Department.

- ❑ The **following types of cases are NOT impacted by the plan**. Current projections support the expectation that funds will be available through the end of the biennium for the appointment of counsel to those determined financially eligible in all of the following types of cases:
 - termination of parental rights;
 - dependency (abuse and neglect) for parents and children;
 - aggravated murder (adult and juvenile);
 - all “person” felonies, including Measure 11 (adult and juvenile);
 - all “person” misdemeanors (adult and juvenile);
 - all adult “person” felony probation violations;
 - civil commitment;
 - Psychiatric Security Review Board;
 - Family Abuse Protection Act contempt (violation of restraining orders);
 - child support contempt;
 - Habeas Corpus;
 - extradition;
 - all appeals; and
 - all pending cases, regardless of type of case where counsel has been appointed prior to the reduction plan’s implementation date.

- ❑ Of the \$10.1 million deficit, \$5.1 million is “tied” to the January 28, 2003 temporary income tax measure (Measure 28).

- ❑ The Reduction Plan is displayed as a one-page table on page 3 of this Fact Sheet.

The Reduction Plan – If Measure 28 FAILS

Beginning March 1, 2003, counsel will not be available for appointment to the following trial-level case types:

- all non-person misdemeanors (adult and juvenile);
- all non-person misdemeanor probation violations (adult and juvenile);
- all postconviction relief cases;
- all adult non-person felony probation violations;
- all adult contempts, except Family Abuse and Prevention Act (violation of a restraining order) and child support contempts;
- all adult non-person Class C felonies (generally, property and drug offenses);
- all adult Possession of Controlled Substance felonies (including drug courts);
- all adult Class A and B property felonies;
- 80 percent of all adult person misdemeanor probation violations – reserving 20 percent of these probation violation cases for the courts to be able to appoint counsel for the most egregious, high-risk cases;
- 80 percent of all juvenile person misdemeanor probation violations – reserving 20 percent;
- 80 percent of all juvenile felony probation violations (assumes 20 percent are person felony probation violations); and
- all juvenile non-person felonies.

The Reduction Plan – If Measure 28 Is APPROVED

Beginning March 1, 2003, counsel will not be available for appointment to the following trial-level case types:

- all non-person misdemeanors (adult and juvenile);
- all non-person misdemeanor probation violations (adult and juvenile);
- all postconviction relief cases;
- all adult non-person felony probation violations; and
- all adult contempts, except Family Abuse and Prevention Act (violation of a restraining order) and child support contempts.

What does “counsel will not be available for appointment” mean?

At the initial court appearance, affected cases will be rescheduled for a court appearance in the next biennium which begins July 1, 2003.

Examples of Frequently Charged “**Non-Person**” Crimes are provided on the last two pages of this Fact Sheet.

Chief Justice's Indigent Defense Reduction Plan
Indigent Defense Account– **\$10.1 Million Budget Deficit**

Trial Level Case Type	Effective Date of Reduction	Total Biennium Estimated Cases	Estimated Caseload for Time Period	Case Reduction	Value of Case Reduction	Percentage Reduction	Shortfall Remaining After Reduction
<i>Budget Shortfall</i>							\$10,108,280
Adult Non-Person Misdemeanors*	3/1/03	56,068	9,345	9,345	\$2,709,953	100%	\$7,398,327
Adult Non-Person Misdemeanor PVs*	3/1/03	14,360	2,393	2,393	\$466,700	100%	\$6,931,627
Juvenile Non-Person Misdemeanors*	3/1/03	5,390	898	898	\$251,533	100%	\$6,680,093
Juvenile Non-Person Misdemeanor PVs*	3/1/03	2,590	432	432	\$75,542	100%	\$6,604,552
Post-Conviction Relief	3/1/03	1,160	193	193	\$348,000	100%	\$6,256,552
Adult Non-Person Felony PVs	3/1/03	26,000	4,333	4,333	\$910,000	100%	\$5,346,552
Adult Contempt, except FAPA and Support	3/1/03	2,275	379	379	\$113,750	100%	\$5,232,802
<i>Subtotal</i>		107,843	17,974	17,974	\$4,875,478		
If the tax measure passes and \$5.1 million is restored, reduction of case types below this line will not be necessary on 3/1/03.							
Adult Non-Person Class C Felonies	3/1/03	45,496	7,583	7,583	\$3,260,547	100%	\$1,972,255
Adult Class B PCS Felonies	3/1/03	1,432	239	239	\$162,293	100%	\$1,809,962
Adult Person Misdemeanor PVs	3/1/03	12,070	2,012	1,609	\$313,820	80%	\$1,496,142
Juvenile Person Misdemeanor PVs	3/1/03	810	135	108	\$18,900	80%	\$1,477,242
Juvenile Felony PVs	3/1/03	3,400	567	453	\$79,333	80%	\$1,397,908
Juvenile Non-Person Felonies	3/1/03	5,168	861	861	\$430,667	100%	\$967,242
Adult Class A & B Property Felonies **	3/1/03	6,038	1,006	1,006	\$902,681	100%	\$64,561
<i>Subtotal</i>		74,414	12,402	11,860	\$5,168,241		
Total		182,257	30,376	29,834	\$10,043,719		

Abbreviations: PV = Probation Violation; FAPA = Family Abuse Prevention Act; PCS = Possession of Controlled Substance

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* Court operations cutbacks as well.

** Case type may not be affected if the January 2003 budget reduction to the Multnomah County District Attorney's office otherwise results in equivalent savings to the Indigent Defense Account.

Examples of Frequently Charged
“Non-Person” Misdemeanor Crimes

Common Term	Legal Term, Description or Example	Classification Seriousness *
Writing a Bad Check	Negotiating a Bad Check	Class A misdemeanor (Class C felony if prior conviction in last 5 years)
Credit Card Fraud	Fraudulent Use of a Credit Card – under \$750	Class A misdemeanor
Mail Theft	Mail Theft or Receipt of Stolen Mail	Class A misdemeanor
Prostitution	Prostitution	Class A misdemeanor
Shoplifting	Theft III – value under \$50	Class C misdemeanor
	Theft II – value between \$50 and \$750	Class A misdemeanor
“Dine and Dash”	Theft of Services – value under \$50	Class C misdemeanor
	Theft of Services – value between \$50 and \$750	Class A misdemeanor
Trespass	Criminal Trespass I – illegal entry into a dwelling	Class A misdemeanor
	Criminal Trespass II – homeless person who refuses to leave entry way of a business	Class C misdemeanor
Trashing Someone Else’ Property	Criminal Mischief III – tampering or interfering with another’s property – no damage or damage \$100 or less	Class C misdemeanor
	Criminal Mischief II – tampering or interfering with another’s property – damage greater than \$100 but less than \$750	Class A misdemeanor
Reckless Arson	Reckless Burning – reckless damage to property by fire or explosion	Class A misdemeanor

* **Maximum Penalties:**
Class A misdemeanor: one year jail and/or \$5,000 fine
Class B misdemeanor: six months jail and/or \$2,000 fine
Class C misdemeanor: thirty days jail and/or \$1,000 fine

Examples of Frequently Charged
“Non-Person” Class C Felony Crimes

Common Term	Legal Term, Description or Example	Classification Seriousness *
Drug Possession of Meth or Cocaine	Possession of a Controlled Substance II – for example, Methamphetamine or Cocaine	Class C felony
Identity Theft	Identity Theft	Class C felony
Car Theft	Unauthorized Use of a Motor Vehicle	Class C felony
Breaking & Entering	Burglary II	Class C felony
Forgery	Forgery I – \$750 or more	Class C felony
Writing a Bad Check	Negotiating a Bad Check	Class C felony (if prior conviction in last 5 years)
Credit Card Fraud	Fraudulent Use of a Credit Card – \$750 or more	Class C felony
Arson	Arson II – damage to property exceeding \$750	Class C felony
Trashing Someone Else' Property	Criminal Mischief I – damage greater than \$750	Class C felony
Theft	Theft I – for example of a firearm, livestock or property with value of \$750 or more	Class C felony

* **Maximum Penalty:** Five years imprisonment and/or \$100,000 fine