



Office of the Ohio Public Defender

Elizabeth R. Miller, *State Public Defender*

House Bill 96 Testimony

Elizabeth R. Miller, State Public Defender

House Judiciary Committee

February 26, 2025

Chair Thomas, Vice Chair Mathews, Ranking Member Isaacsohn, and members of the House Judiciary Committee:

I am State Public Defender Elizabeth Miller¹ and on behalf of the Office of the Ohio Public Defender (OPD), thank you for the opportunity to testify regarding House Bill 96 (HB 96).

As the State Public Defender, I proudly serve as the Director of the OPD. The OPD is Ohio's state agency that bears the great responsibility of ensuring that the constitutional rights of indigent Ohioans who become involved with the criminal legal and youth justice system are protected. The OPD employs approximately 200 employees in five different offices. Our work includes, but is not limited to, providing direct representation on appeals and post-conviction actions in death penalty, criminal, and youth delinquency cases and representation in the Ohio Supreme Court; at trial when requested by local courts and in counties that contract with OPD for trial services; and OPD serves as the sole source of counsel at parole revocation hearings for individuals subject to supervision by the Ohio Department of Rehabilitation and Correction (DRC).

The OPD also provides conditions of confinement assistance to youth incarcerated in the Ohio Department of Youth Services, and investigation and mitigation services to local public defenders and court-appointed counsel across Ohio. The OPD further provides technical assistance, research services, and training to counties, public defender offices, and defense counsel who represent people who are indigent. Finally, the OPD is responsible for reimbursing

¹ The Ohio Public Defender Commission is a nine-member body composed of professionals, including attorneys appointed by the Governor and the Supreme Court. The Commission appoints the State Public Defender and has statutory duties under Revised Code Chapter 120 to establish and reinforce standards, rules, procedures, and guidelines regarding numerous aspects of indigent defense in Ohio.



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all 88 counties for a portion of the cost of their local indigent defense services – processing approximately 140,000 bills each fiscal year.

BUDGET COMPONENTS OVERVIEW

I want to express my deep appreciation and support for Governor DeWine’s proposed executive budget for indigent defense. In the last three operating budgets, the DeWine Administration and the General Assembly have supported critical investments in Ohio’s indigent defense system, and we are grateful to see that trend continue with the Governor’s proposed budget for the next biennium. It is important to note that OPD currently has four separate components to our overall budget, and that HB 96 introduces a fifth component to our budget with the creation of the Northwest Regional Hub (NWRH), as follows:

1. The OPD’s operating budget funds the OPD’s Central Office, which is primarily used to employ staff to provide direct representation to indigent Ohioans across the State, technical support and training to counties, and to help meet our statutory duties prescribed in Revised Code Chapter 120;
2. The multi-county branch office budget provides funding to support operations in the ten counties that contract with the OPD to provide indigent defense services (Adams, Athens, Brown, Fayette, Jackson, Pickaway, Pike, Ross, Trumbull, and Washington). The funding for this program is split between the State and the participating counties at the same rate as the statewide county reimbursement rate;
3. Through its reimbursement budget, the OPD reimburses all 88 counties for their county-level indigent defense costs once counties pay and submit their costs to OPD for reimbursement;
4. The OPD also has a budget line that serves strictly as a pass through to the Ohio Access to Justice Foundation (OAJF). The OAJF is a non-profit that funds civil legal programs and services to address the unmet civil legal needs of low-income Ohioans. Importantly, the OAJF, through its Legal Aids, does not provide indigent defense services, so their budget does not impact defense indigent defense representation;



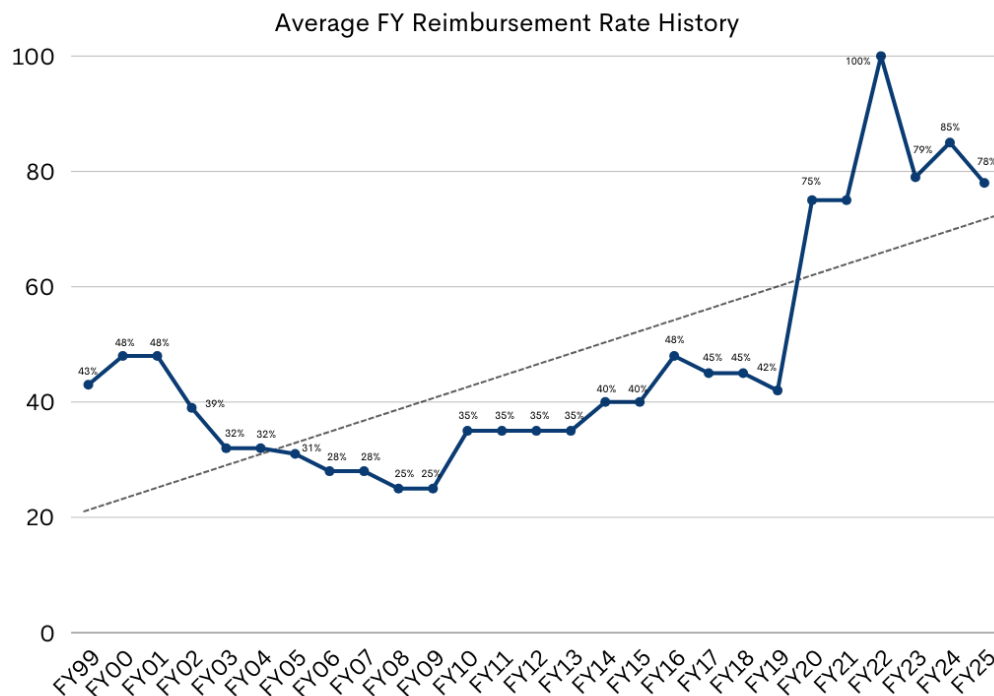
5. HB 96 creates a pilot program known as the Northwest Regional Hub (NWRH). Under this program, the Allen County Public Defender's Office will be absorbed into the operations of the OPD, and indigent defense services will be provided in Allen, Hardin, and Putnam Counties. The operations of the pilot will be fully funded by the State.

OPERATING BUDGET

The executive budget includes \$40 million for OPD's operating budget over the course of the biennium. This budget will allow OPD to maintain its current operations and services, and the OPD respectfully requests the General Assembly to maintain the funding levels for OPD's operational budgets as currently proposed in HB 96. Currently, 84% of OPD's operating budget is used for payroll while 15% is committed towards office space, supplies, maintenance, and contracts.

COUNTY REIMBURSEMENT

A major focus of every operating budget is the amount appropriated to reimburse all 88 counties for their indigent defense costs. The OPD is grateful to Governor DeWine for continuing his historic investment in county-level indigent defense by allocating \$197 million in FY26 and \$202 million in FY27. Until 2019, counties were reimbursed at less than fifty percent for their county's indigent defense costs (as shown below).



Although reimbursement rates increased in fiscal year 2020, as counties continue to make necessary investments in their respective indigent defense services to ensure constitutional and effective representation is afforded to all Ohioans impacted by the system, reimbursement submissions indicate that indigent defense system costs continue to increase.

Figure 1 below summarizes the amount of reimbursement submissions for county indigent defense expenses from FY20 – FY25.

Figure 1.

Reimbursement Overview	FY20	FY21	FY22	FY23	FY24	FY25 (6 mo. data)
Average Monthly Submissions	\$12.5 mil	\$11.9 mil	\$13.5 mil	\$16 mil	\$17.7 mil	\$18.6 mil
Annual Approved Submissions	\$150,475,274	\$142,745,863	\$162,031,862	\$189,846,413	\$210,902,452	\$111,360,079
Annual Average Reimbursement Rate	75%	75%	100%	79%	85%	78%

Figure 2 below shows an estimate of what reimbursement rates may be supported based upon the possible spending of Ohio's 88 counties and the Governor's proposed reimbursement budget for FY26 and FY27. The projections for both years are based upon the assumption that monthly submissions will remain within the \$20-22 million range.

Figure 2.

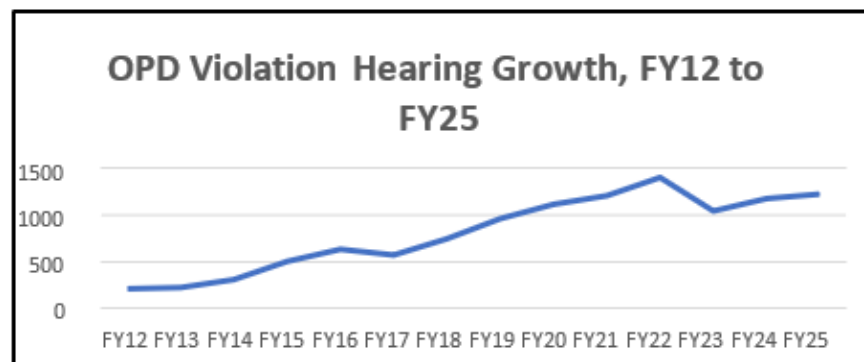
Reimbursement Budget	FY26 = \$197 mil	FY27 = \$202 mil
Submission/Rate Scenario	\$252 mil total = 78% (\$20 mil/mo.)	\$264 mil total = 76.5% (\$21 mil/mo.)
Submission/Rate Scenario	\$258 mil total = 76.2% (\$20.5 mil/mo.)	\$270 mil total = 74.8% (\$21.5 mil/mo.)
Submission/Rate Scenario	\$264 mil total = 74.5% (\$21 mil/mo.)	\$276 mil total = 73.1% (\$22 mil/mo.)

Note: Each of the above "total amount scenarios" include \$12mil in FY26 and \$12mil in FY27 for the cost of OPD providing indigent defense services in the 10 counties that elect to contract with OPD. Those costs are subject to the reimbursement rate, the same as all other county indigent defense services.



PROPOSED STATUTORY LANGUAGE CHANGES

- i. **County's Projected Indigent Defense Costs.** A major challenge under Ohio's current indigent defense structure is the inability to predict the level of indigent defense services counties may need in an upcoming biennium. Ohio's system makes it incredibly difficult for OPD to project costs and to provide the General Assembly with a fully informed estimate of what level of funding may be necessary to achieve a certain rate of reimbursement to the counties. Under provisions included in HB 96, all 88 counties will be required to submit, biennially, an indigent defense cost projection report to the State Public Defender. These reports will allow the OPD to better project costs of Ohio's indigent defense system and to provide more accurate cost estimates. We fully support this language and request the General Assembly keep this provision in HB 96.
- ii. **OPD's Ability to Contract with Private Counsel for Revocation Hearings.** HB 96 also includes statutory changes to RC 120.06 and RC 120.08, which both the DRC and OPD support, to help meet Ohio's constitutional duty to provide counsel in DRC parole and post-release control revocation hearings. To provide context on the statutory change, OPD has an existing mandatory statutory duty to provide counsel at DRC revocation hearings. OPD is presently the sole source of counsel to meet the constitutional right to counsel at these hearings. The volume of DRC revocation hearings where OPD must provide counsel has increased significantly in the past decade, from 212 hearings in 2012 to 1,162 hearings in 2024, as illustrated below. With the current volume of work and OPD's staffing levels, it is impossible for OPD to provide counsel at all revocation hearings. The proposed language would allow the agency to address the dire need to contract with attorneys to provide representation in some of these cases. The OPD appreciates the Governor's and DRC's support of this change, and we ask the General Assembly to pass these revisions which are reflected in HB 96.



- iii. **Removing the \$75 per hour cap for Reimbursement.** In Ohio, courts are struggling to find attorneys to provide indigent defense representation – predominantly in rural jurisdictions. The attorney shortage impacts courts’ ability to find and assign attorneys to represent indigent defendants throughout court proceedings, which causes unnecessary delays and an increase in costs to the system. The OPD is requesting that the General Assembly remove the \$75 an hour cap on reimbursement that is currently proposed as a temporary law provision in HB 96. The OPD believes the \$75 cap impacts the courts’ ability to find and retain attorneys willing to work in this underserved field, resulting in a disproportionate impact on the smaller, rural counties.

NORTHWEST REGIONAL HUB (NWRH)

We are excited about Governor DeWine’s support for the creation of a new indigent defense delivery model in Ohio, termed the NWRH. The NWRH is a unique pilot project focused on providing fully funded indigent defense services in Allen, Hardin, and Putnam counties using a more cost-effective regional hub model. Currently, Allen County operates its own county public defender office, and Hardin and Putnam counties rely exclusively on court appointed counsel. Like many rural counties in Ohio, it is a challenge to find local counsel to take indigent defense cases.

Under the NWRH, the Allen County Public Defender Office will become part of the OPD’s operations, and act as a hub for the services provided in Allen, Putnam, and Hardin counties. Under this pilot, at least 20% of cases would be assigned to appointed counsel (as counsel is available and willing to take cases), with the remainder of cases being assigned to a public defender. As the physical hub, Allen County will house and provide support to public defenders designated to serve each of the three counties. By providing shared administrative services, the three counties will avoid the redundant costs of multiple physical offices. To aid the General Assembly in understanding the true cost of Ohio’s indigent defense system, the Executive Budget proposes that the NWRH be separately and fully funded under its own line item. The pilot project is also not subject to the reimbursement rate, allowing the costs and operations of the regional hub model to be studied and compared to other service models currently available in Ohio. As a potential model for future regional hubs in other parts of the state, the NWRH can help bring stability, predictability, and accountability to Ohio’s indigent defense system.



The NWRH is supported by the OPD, the Ohio State Bar Association, the County Commissioners Association of Ohio, the Ohio Association of Criminal Defense Lawyers, the Ohio Judicial Conference, the Ohio Access to Justice Foundation, and Allen County Commissioner Cory Noonan. We are excited about Governor DeWine's support of the NWRH, and we ask the General Assembly for its support in HB 96.

In closing, the OPD remains grateful to Governor DeWine and the General Assembly for their continued investment in Ohio's indigent defense system. We respectfully request the General Assembly's support for the same level of funding and statutory changes provided in HB 96 and outlined herein. Governor DeWine's proposed funding levels for indigent defense will support OPD's central operations and provide a high level of reimbursement support to Ohio's 88 counties. Thank you again for the opportunity to testify and for your consideration of our budget requests. I am happy to answer any questions you may have at this time.



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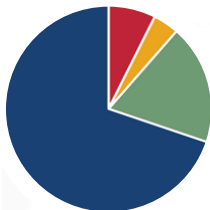
ABOUT US

The Office of the Ohio Public Defender (OPD) represents people at trial, on appeal, and in post-conviction actions in death penalty, criminal, and youth defense cases. The OPD also provides assistance to the more than 45,000 people in Ohio's prisons and kids in DYS; and at revocation hearings for people on post-release supervision. Our 200 people strong agency also provides investigation and mitigation support to defense teams; technical assistance, research services, and educational programs to indigent defense practitioners. OPD also reimburses counties for a portion of their costs of running local indigent defense systems.

THE FOUR COMPONENTS OF OPD'S BUDGET

Operating Budget (7.4%)

This budget supports the day-to-day operating expenses of the State Public Defender Office and is primarily used to employ staff to help meet statutory duties as prescribed in R.C. 120—among which is oversight and administration of the reimbursement funds.



Multi-County Branch Office Budget (4.0%)

This budget provides funding to support operations in the ten counties that contract with the OPD to provide indigent defense services (Adams, Athens, Brown, Fayette, Jackson, Pickaway, Pike, Ross, Trumbull, and Washington). The funding for this program is split between the State and the participating counties at the same rate as the statewide county reimbursement rate.

Reimbursement Budget (69.8%)

This budget provides reimbursement to Ohio's 88 counties for the county-level costs of indigent defense. These funds are not available for OPD's operational budget.

Ohio Access to Justice Foundation Budget (18.7%)

The OPD also has a budget line that serves as a pass through to the Ohio Access to Justice Foundation (OAJF), a non-profit that funds civil legal programs and services to address the unmet civil legal needs of low-income Ohioans. The OAJF, through its Legal Aids, does not provide indigent defense services, so their budget does not impact defense indigent defense representation.

OPD'S BUDGET PRIORITIES



OPD's Operating Budget

We request your support to maintain our operating budget appropriations as currently provided in HB 96. We recognize the constraints in this budget cycle and the current appropriation of \$40 million over the course of the biennium allows us to maintain current staffing and services.



Northwest Regional Hub

We request your support for the creation of the Northwest Regional Hub, which is currently included in HB 96. As a potential model for future regional hubs in other parts of Ohio, this innovative new model will allow for efficiencies, shared space, costs, and support services and will help bring full-time employees to service the three county's courts, bringing stability, predictability, and accountability to Ohio's indigent defense system.



Removing the \$75 Cap

We request the removal of the \$75 cap on court appointed counsels' reimbursable hourly rate, which is currently included in HB 96. The \$75 cap impacts the courts' ability to find and retain attorneys willing to work in this underserved field. It also results in a disproportionate impact on the smaller, rural counties.



Ability to Contract for Revocation Hearings

We request your support for the statutory language currently in HB 96 that allows the OPD to contract with private attorneys to meet our statutory obligation of providing the constitutional right to counsel in DRC revocation hearings.



Increased Funds for Reimbursement

Current appropriations for reimbursement in HB 96 are \$197 million for FY26 and \$202 million for FY27. We requests your support to increase funding for reimbursement to \$240 million for FY26 and \$252 million for FY27.

THE NORTHWEST REGIONAL HUB

WHAT IS IT?

The Northwest Regional Hub (NWRH) is an innovative pilot project currently included in House Bill 96. It will create a completely new regional model for indigent defense services, serving Allen, Hardin, and Putnam counties through state public defenders and appointed counsel in the region.

Currently, Allen County operates its own county public defender office, and Hardin and Putnam counties rely exclusively on court appointed counsel. Under the proposal, the Allen County Public Defender's Office would become part of the OPD's operations and serve as the physical hub for the three counties, of which 20-60 percent of cases would be assigned to appointed counsel (as available). By providing shared administrative services, the three counties will avoid the redundant costs of multiple physical offices and enjoy shared support services.

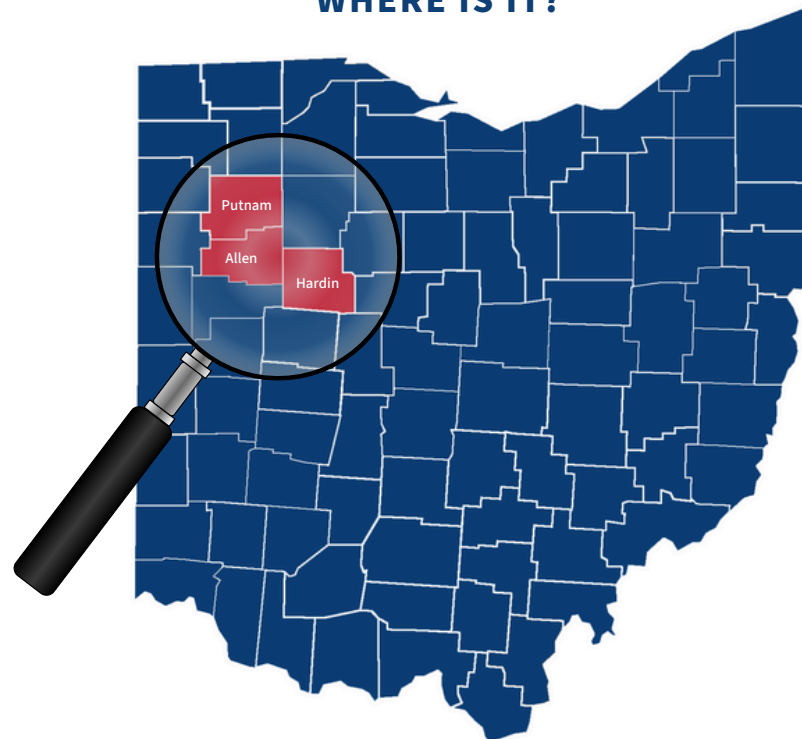
The NWRH will be separately and fully funded under its own budget line item to ensure the project is not subject to the all-county reimbursement rate, allowing the costs of the regional hub model to be studied under real world conditions.

As a potential model for future regional hubs in other parts of Ohio, the NWRH is a reasonable and measured next step that will help ensure Ohio provides quality defense services in an efficient and cost-effective manner. The OPD respectfully requests

KEY HIGHLIGHTS

- Streamlines and consolidates operations while improving indigent defense services in the currently underserved areas of Hardin and Putnam Counties.
- Preserves judicial satisfaction with current services in Allen County.
- Offers increased accountability and transparency of state spending in the three counties.
- Creates a predictable funding model for indigent defense services.
- Protects workload for local appointed counsel in rural areas.
- Preserves local judicial control of appointed counsel.

WHERE IS IT?



ENDORSED BY:



**Office of the Ohio
Public Defender**
Advocating. Fighting. Helping.



Cory Noonan
Allen County Commissioner



**Office of the Ohio
Public Defender**

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Ohio's Indigent Defense Reimbursement System

OVERVIEW

At the county level, the local county commission determines what method(s) of indigent defense representation are provided for their county. The map on this page reflects the methods of indigent defense representation currently utilized in each county. Additional information on funding, number of cases, and other indigent defense expenses for each county can be found in the [Appointed Counsel and Public Defender Cost and Expense Report*](#), which is posted on the Ohio Public Defender (OPD) website.

In Ohio, each county is responsible for providing and paying for indigent defense services provided in their county. After making payment, counties submit qualifying costs to the OPD for reimbursement. Once the bills from all 88 counties have been submitted to OPD (approximately three months later), a comparison is made between the amount spent and the amount available to provide reimbursement. The result of that comparison determines the reimbursement rate provided.

*To access this report manually, copy and paste the following link into your browser: <https://opd.ohio.gov/law-library/reports/FY24-AC-PD-CE-Report>

MAP OF COUNTY SERVICES

- County Public Defender & Court Appointed Counsel
- Court Appointed Counsel
- Contract with Non-Profit & Court Appointed Counsel
- Contract with State Public Defender & Court Appointed Counsel
- Contract with State Public Defender, Non-Profit & Court Appointed Counsel



REIMBURSEMENT OVERVIEW

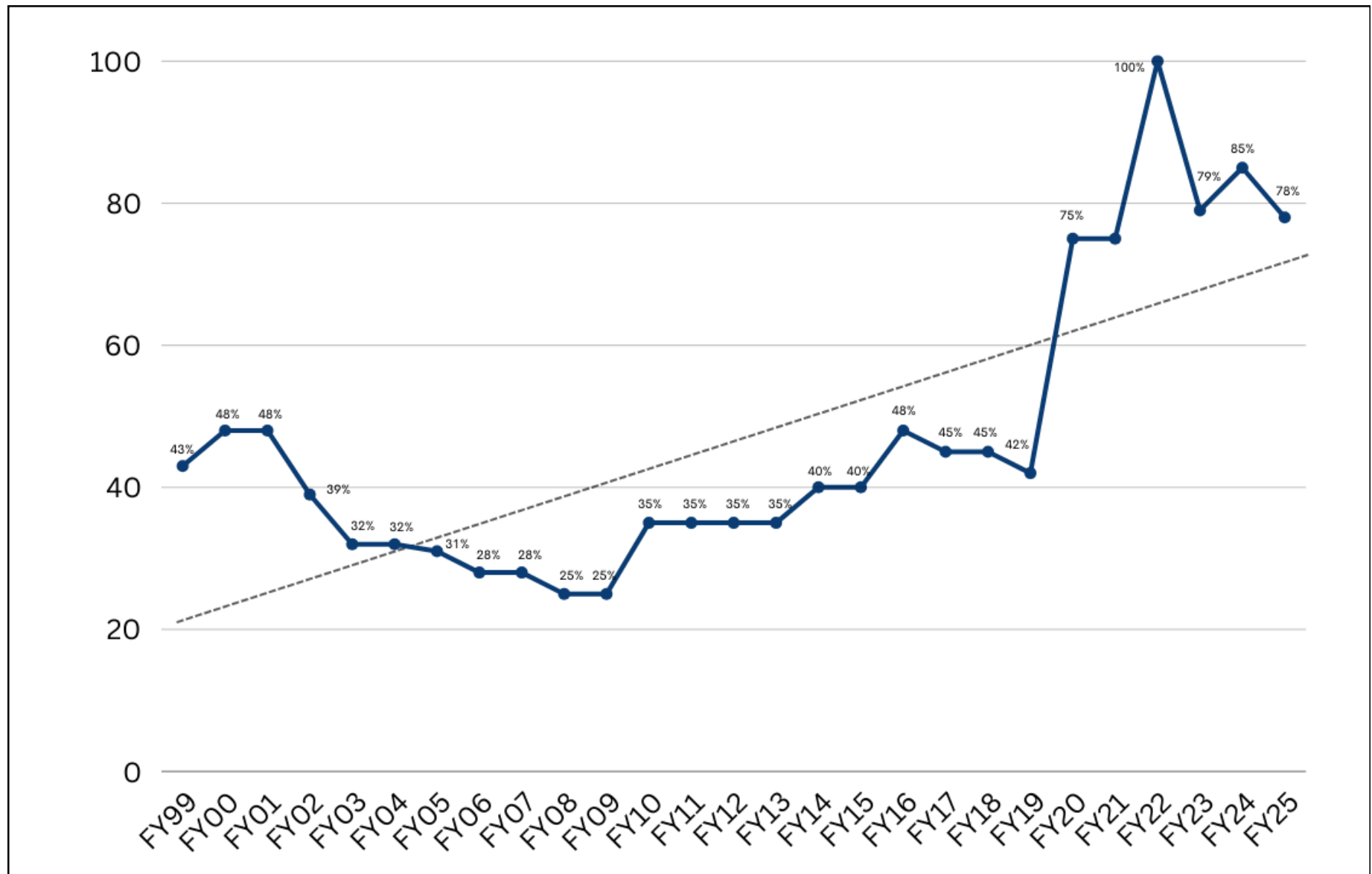
Overall, indigent defense costs and reimbursement requests have continued to increase, as evidenced by the below overview of reimbursement submissions from FY20—FY25.

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AVERAGE FISCAL YEAR REIMBURSEMENT RATE HISTORY



FOR MORE INFORMATION



OPD's Annual
Reports on
Reimbursement



Interactive Ohio
County Map



www.opd.ohio.gov



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OHIO'S INDIGENT DEFENSE STRUCTURE

OHIO INDIGENT DEFENSE STRUCTURE & FUNDING

Under Ohio's current indigent defense system, there are five statutorily available service delivery methods for counties to choose from: a county public defender office; court appointed counsel; contracting with a non-profit corporation; contracting with the Office of the Ohio Public Defender; or a public defender's office run jointly among multiple counties. Counties may generally utilize one or more of these methods. Regardless of the method elected, all counties utilize court appointed counsel. Currently, 10 counties contract directly with OPD for services.



OVERVIEW OF THE REIMBURSEMENT PROCESS

THE FOUR DIFFERENT DELIVERY METHODS

Court Appointed Counsel

Appointed counsel submits bill to judge.

Judge reviews and approves* bill, then sends bill to county auditor.

County auditor reviews and pays appointed counsel directly, and then sends bill to OPD.

OPD reviews and approves** the bill, then reimburses the county at the current reimbursement rate.

County Public Defender Office

County public defender office provides and pays for services upfront.

County public defender submits monthly report to OPD detailing operational expenses and caseloads.

OPD reviews and approves** the expenses and reimburses the county at the current reimbursement rate.

Contract with Non-Profit Corporation

County contracts with a non-profit corporation to provide services, paying the non-profit upfront.

County submits monthly report to OPD detailing operational expenses and caseloads of the non-profit.

OPD reviews and approves** the expenses and reimburses the county at the current reimbursement rate.

Contract with the Ohio Public Defender

County contracts with the Ohio Public Defender, which directly provides indigent defense services pursuant to the contract.

OPD's fiscal office monitors and records OPD's operational costs and caseloads specific to its contract with the county.

OPD bills the county, on a quarterly basis, the portion of the contract price that is not covered by the current reimbursement rate.

*Judges have the authority to deny, modify, or approve appointed counsel bills upon receipt.

**OPD reviews reimbursement submissions and approves, reduces, or denies them in accordance with R.C. 120.