Oregon Health Authority

Too Early to Tell: The Challenging Implementation of Measure 110 Has Increased Risks, but the Effectiveness of the Program Has Yet to Be Determined

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Audit Highlights

Oregon Health Authority

Too Early to Tell: The Challenging Implementation of Measure 110 Has Increased Risks, but the Effectiveness of the Program Has Yet to Be Determined

Why this audit is important

- Oregon has the second highest rate of substance use disorder in the nation and ranked 50th for access to treatment. In Oregon, more than two people died each day from unintentional opioid overdoses in 2021.
- The U.S. experiences over $700 billion in costs relating to crime, poor health, and lost work productivity from untreated substance use disorders, a chronic, preventable, and treatable disease.
- Ballot Measure 110 (M110), which passed with 58% of the vote, is a first-in-the-nation program decriminalizing drug possession and allocating over $100 million per year in cannabis revenue to expand treatment services.
- Advocates of M110 hope it will succeed where previous recovery and treatment efforts have failed, especially when it comes to supporting Black and Indigenous communities and people of color.

What we found

This real-time audit was conducted in alignment with the Oregon Audits Division's strategic focus of being timely and responsive. Real-time auditing focuses on evaluating front-end strategic planning, service delivery processes, controls, and performance measurement frameworks before or at the onset of policy implementations. We appreciate the Legislature's support of this auditing approach by requiring a real-time audit of M110.

1. There is a significant risk that policy makers and the public will be unable to gauge the impacts and effectiveness of M110 due to existing grant management and data collection efforts. (pg. 13)
2. Program governance, including the organizational structure of the Oversight and Accountability Council and M110 grant processes, can be improved. (pg. 14)
    a. Roles and responsibilities under M110 were not clear and the existing system faces multiple silos and fragmentation.
    b. The Oregon Health Authority failed to provide enough support to ensure implementation of M110 was successful.
    c. M110's grant application process can be made more efficient and consistent.
3. Existing silos and fragmentation in the delivery of mental health and substance use disorder treatment provide opportunities for greater collaboration and coordinated efforts. Stakeholder collaboration could be improved, especially coordination with the Department of Corrections and other public safety agencies and opportunities to collaborate with the Oregon Housing and Community Services and other housing authorities. (pg. 20)

What we recommend

We made four recommendations to the Oregon Health Authority. OHA agreed with all of our recommendations. The response can be found at the end of the report. We also made four recommendations to the Oregon Legislature for their consideration.

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Introduction

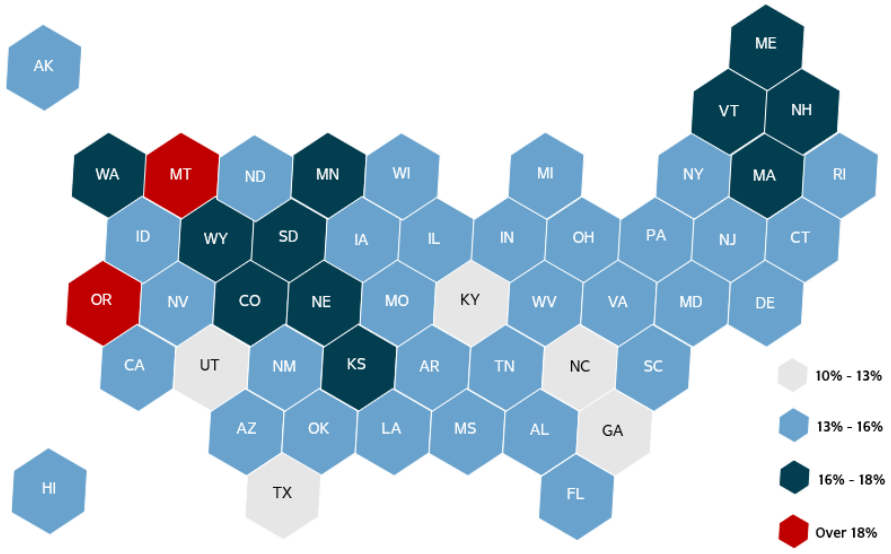
Across Oregon, people suffer from the effects of substance use disorder. The Opioid epidemic in recent years has further increased the public's awareness of this important public health issue. In November 2020, Oregon voters approved Ballot Measure 110 (M110) as a first-in-the nation initiative with a unique governance structure and funding vehicle. The measure decriminalized possession of small amounts of controlled substances and redirected hundreds of millions in cannabis tax revenue for expanding addiction recovery and support services.[1] One of the measure's stated goals was for Oregon to "shift its focus to addressing drugs through a humane, cost-effective health approach" as opposed to a law enforcement approach.

M110 gave local communities decision-making authority in the spending of recovery support grant funds through the creation of the Oversight and Accountability Council (OAC). The OAC is comprised of members from the substance use disorder recovery community, and diverse communities disproportionately impacted by the war on drugs. This council serves as the decision-making body for the M110 initiative and works closely with the Oregon Health Authority (OHA) to accomplish its goals. OHA is required by statute to provide support to the OAC in all ways necessary for the program's success. For example, OHA staff are responsible for council meeting logistics, maintaining external communication, managing contracts for the M110 grant recipients, and providing subject matter expertise for technical aspects of implementing the grant program.

People are suffering from untreated substance use disorders

Substance misuse affects people from all walks of life and age groups. In 2020, Oregon had the second-highest substance use disorder rate in the nation and ranked 50th for providing access to substance use disorder treatment.

Figure 1: Oregon has the second-highest rate of substance use disorder of all 50 states



Source: Substance Abuse and Mental Health Services Administration, age 12 and older

[1] Possession of small amounts of controlled substances was reduced to a Class E violation.

People across the state are struggling with addiction. More than two people die from unintentional opioid overdoses each day. Another five people die from alcohol related deaths each day. The consequences of untreated substance use disorder ripple across our state.

The opioid crisis has created significant strain on the child welfare system as more children and youth enter care as a result of their parents' substance use disorders. Several factors are involved in addressing the opioid epidemic at national, State, and local levels, including reducing stigma to increase treatment seeking, increasing collaboration between key stakeholders, and supporting children and youth who enter foster care as a result of their parents' opioid use.

The human cost of substance use disorder is immense ranging from untimely deaths to broken families to disproportionate incarceration rates. We highlight two real-world examples of people suffering from untreated substance use disorder later in this report. M110 sought to alleviate this suffering with a first-in-the-nation policy decriminalizing drug possession and expanding treatment services.

Measure 110 seeks to address limited access to treatment for substance use disorders

A nationwide increase in substance use disorder exacerbates the suffering in the lives of the many affected. A report by the National Institute on Drug Abuse found over $700 billion in associated costs relating to crime, poor health, and lost work productivity.[2] Substance use disorder is a chronic, preventable, and treatable disease. As presented to voters, M110 noted:

> "… Oregonians need adequate access to drug addiction treatment … Drug addiction exacerbates many of our state's most pressing problems, such as homelessness and poverty … Oregon needs to shift its focus to addressing drugs through a humane, cost-effective, health approach. People suffering from addiction are more effectively treated with health care services than with criminal punishments … Oregon still treats addiction as a criminal problem … Punishing people who are suffering from addiction ruins lives … Criminalizing drugs saddles people with criminal records. Those records prevent them from getting housing, going to school, getting loans, getting professional licenses, getting jobs and keeping jobs. Criminalizing drugs disproportionately harms poor people and people of color."

Voters adopted M110 by a vote of 58% to 42% in 2020.

In July 2021, Oregon Senate Bill 755 amended the M110 program.[3] This real-time audit was conducted in compliance with Senate Bill 755 audit requirements with the focus of being timely and responsive. Real-time auditing focuses on evaluating front-end strategic planning, service delivery processes, controls, and performance measurement frameworks before or at the onset of significant program or public policy implementations by state agencies.

M110 created Behavioral Health Resource Networks (BHRNs), which are providers collaborating to deliver substance use services free of charge in Oregon. M110 redirected millions in cannabis tax

[2] Drugs, Brains, and Behavior: The Science of Addiction, National Institute of Drug Abuse 2020 revision.
[3] For the purpose of this report we will refer to M110 as the program, not specifically the ballot measure, and not Senate Bill 755. When we reference M110, we are also referencing the amendments to the program as incorporated by the Senate Bill.

revenues to fund these BHRNs. Previously, this tax revenue was allocated between the state school fund, state agencies, cities, and counties. While a significant portion has been redirected due to M110, $45 million is still allocated each year among these entities.

Harm reduction is a set of practical strategies and ideas aimed at reducing negative consequences associated with substance use. Harm reduction can take many forms but providing clean needles to prevent infectious disease transmission such as Hepatitis C is among the most common harm reduction practices adopted worldwide. Harm reduction practices are supported in at least 105 different countries.

There is at least one BHRN in every county and Tribal area. Services provided must be trauma-informed, culturally specific, and linguistically responsive. Services include screening, case management, low-barrier substance use disorder treatment, harm reduction, peer mentoring, and housing, among others. A list of all BHRN providers awarded M110 funds by county can be found in Appendix D.

Oregon Health and Science University published an inventory and gap analysis of behavioral health services on September 30, 2022.[4] That study found Oregon had a 49% gap between service demand to supply and an insufficient provision of culturally relevant services statewide. This clear inventory of behavioral health resources in the state will be a fundamental starting point for integrating the disparate pieces of the system into a coordinated effort with sufficient capacity to serve the needs of all people in Oregon.

M110 also required OHA to appoint members to the OAC and support them in fulfilling the mission of the program. OHA and the OAC were together charged with assigning over $100 million per year in cannabis tax revenue to organizations that provide a set of specific recovery and support services for people with substance use disorders.

Oregon's approach to addressing this crisis is siloed and fragmented. People with substance use disorders in disadvantaged communities have faulted Oregon's system for not effectively providing addiction support and recovery. Advocates of M110 hope this new approach will succeed where previous recovery and treatment support structures have failed, especially when it comes to supporting Black, Indigenous, and People of Color (BIPOC) communities.

As a result of legal settlements with pharmaceutical manufacturers and distributors of opioids, Oregon will receive approximately $325 million. These funds will be a revenue source for the state when considering increased access to substance use disorder treatment. They will also be split between the state and local governments and spread over 18 years. The annual fiscal impact will be roughly $18 million — a fraction of M110 funding, but no less important.

Oregon's governance approach for the measure is dependent on a uniquely structured relationship between OHA and the OAC

The OHA budget for the 2021-23 biennium totals over $30 billion and the agency's mission is "ensuring all people and communities can achieve optimum physical, mental, and social well-being through

[4] Oregon Substance Use Disorder Services Inventory and Gap Analysis, September 2022

partnerships, prevention, and access to quality, affordable health care." The agency is charged with administering the integration of Oregon's health care system and is required to provide "all necessary support to ensure the implementation" of M110.[5]

The director of OHA appointed the OAC in February 2021 through a member application process. Since that time, the number of OAC members has fluctuated between 18 and 22. The ballot measure did not set a firm number for the council size; however, M110 stipulated specific types of recovery service experience required for each of the OAC positions (more detail is provided in Appendix B). Members of the OAC are volunteers and can receive stipends for the days they attend meetings or perform OAC-related work, if not already paid by their employer for that time. Their core authority is to independently award M110 funds to BHRNs. The OAC created a request for grant applications for BHRN applicants, an evaluation rubric for assessing grant applications, and Oregon Administrative Rules for the administration of BHRNs. All council members were appointed at the same time and have the same term, which could result in the turnover of the entire council in 2023. Barring legislative changes, that turnover presents a significant risk to M110 implementation.

As noted in our June 2022 letter to OHA,[6] the agency has been charged with administering the integration of Oregon's health care system; however, its role under M110 is unclear given few provisions directed at OHA. The lack of clarity around roles and responsibilities has contributed to delays, confusion, and strained relations between OHA and the OAC.

The OAC has ultimate decision-making authority but relies on OHA for substantial administrative support, planning, analysis, and guidance

M110 gives grant-making, implementation, and oversight authority to the OAC, which is charged with allocating approximately $300 million in funding each biennium. The intent of M110 was to give a voice to local communities outside the traditional structure of state bureaucracy. OAC members generally lacked experience in grant-making and statewide program implementation and needed OHA to provide adequate support. As we noted in our June 2022 letter, OHA has not always provided this needed support to the OAC. This has contributed to delays in funding of BHRNs.

The OAC is empowered by M110 to fund BHRNs but cannot complete this task without sufficient administrative groundwork being performed by OHA, such as reviewing and scoring grant applications and providing financial analyses. Significant staff transitions occurred in summer 2021, which diminished OHA's institutional knowledge of M110. OHA has, at times, assigned non-dedicated staff, working on multiple assignments, on the M110 implementation team. Staffing resources dedicated to M110 have ranged from a handful of people to dozens of staff. For example, in February 2022, eight OHA staff were assigned to M110 work. Although OHA has since increased staffing resources toward M110 implementation, key roles continue to experience staff turnover. Further, turnover at the agency and Behavioral Health director positions adds an additional risk to the long-term success of the new program.

[5] ORS 413.032(b) states OHA shall "Administer the Oregon Integrated and Coordinated Health Care Delivery System" and ORS 413.032(e) states OHA shall "Develop the policies for and the provision of mental health treatment and treatment of addictions."
[6] See Appendix B or the Oregon Secretary of State website.

Oregon's history of systemic racial inequity has resulted in disproportionate health outcomes

Prejudiced public policies have devastated BIPOC communities in Oregon for hundreds of years. These communities have been adversely affected by these policies, including social determinants of health — factors such as economic stability, education, and health care access. In the United States, the decades-long approach known as the "War on Drugs" has been a major factor in this cycle of oppression.[7]

Oregon's foundational governance documents and public policies intentionally excluded and oppressed Black Americans and Indigenous peoples

From its first days as a territory in 1844, Oregon prohibited Black Americans from living within its borders and imposed harsh sentences of public lashes for offenders of this Black exclusion law. After becoming a state, Oregon's Black exclusion law remained in its constitution for an additional 67 years. In 1866, Oregon ratified the 14th Amendment to the U.S. Constitution, only to rescind this ratification two years later in 1868.[8] It took 105 years for the state to re-ratify this amendment in 1973. Oregon also waited 90 years to ratify the 15th Amendment,[9] which gave voting rights to Black Americans. It was not until 2002, 145 years after drafting its constitution, that Oregon removed racist language such as "free Negroes," "mulattoes," "white population," and "white inhabitants" from its constitution. In November 2022, Oregon finally repealed language from the state constitution that allowed the use of slavery and involuntary servitude as criminal punishments.

Oregon's historic treatment of Indigenous people has also been oppressive and violent. White settlers took land and natural resources that had been sustainably managed by Indigenous people for centuries. Missionaries sought to erase Indigenous culture by building schools and churches that propagated European beliefs and attitudes. Over decades, treaties were violated, and promises broken as reservation territory has been continually reduced in size. The federal government has also been responsible for atrocities and trauma; increased attention in 2022 was given to deaths at Indian Residential Schools across the United States and Canada. In Oregon, at least 270 students died at schools in Forest Grove and Chemawa. Due to a complex set of socioeconomic factors, substance use disorders have a disproportionate impact on Indigenous lives.

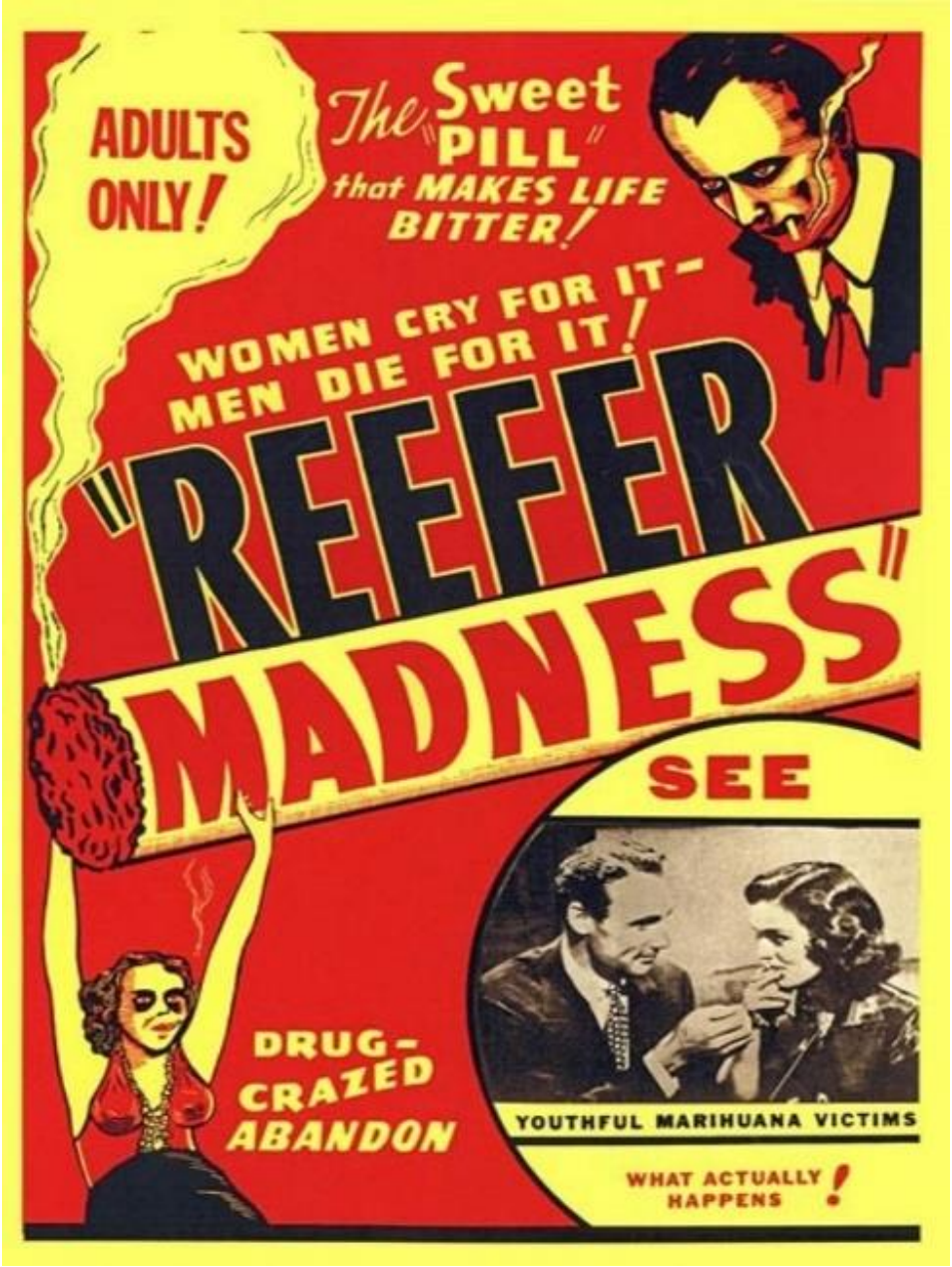
This racist and brutal history has made life harder for Black, Indigenous, and other people of color in Oregon from the beginning and laid a foundation for harmful policies to follow. More details of the racist nature of Oregon's origin can be read on the State Archive website.[10]

The "War on Drugs" and other racist propaganda campaigns created racial disparities

Anti-drug policy in the United States has long had roots in racist attitudes and disinformation campaigns. Politicians and media producers in the 1930s embarked on a deliberate campaign to

[7] The "War on Drugs" is a phrase used to describe the punitive enforcement approach employed by the United States in the second half of the 20th century and into the beginning of the 21st century.
[8] The 14th Amendment ensures, among other things, that states will not deprive any person of life, liberty, or property without due process of law, nor deny any person within its jurisdiction equal protection of the laws.
[9] The 15th Amendment was adopted by the United States in 1869 but not ratified by Oregon until 1959.
[10] National and Oregon Chronology of Events, Oregon State Archives. The Oregon Library Association Equity, Diversity Inclusion & Antiracism Toolkit also provides a model of how institutional racism took hold in Oregon and elsewhere.

associate cannabis with violence, social instability, and anti-immigration sentiment. Prior to these associations, cannabis had been freely used in the U.S. The criminalization of cannabis stemmed from this intentional campaign to oppress people of color, especially Black Americans and immigrants from Mexico.



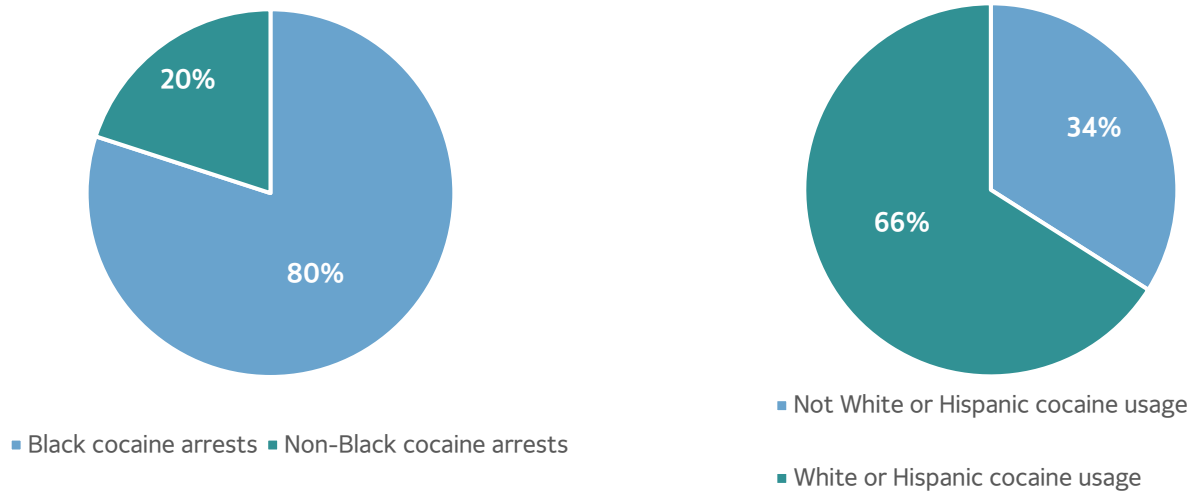
The 1936 propaganda film "Reefer Madness" built on prejudice to further stigmatize cannabis. | Source: Wikimedia Commons

In June 1971, President Richard Nixon declared the "War on Drugs" to start an effort whereby the United States and other countries increased the intensity of anti-drug campaigns, laws, and practices. Nationwide, criminal justice enforcement of drug laws has disproportionately affected people of color who have been targeted by law enforcement since the inception of these policies.

Years later, we can see the impact from the "war on drugs" in data from our criminal justice system. Data from 2003 showed 80% of people in the U.S. arrested and sentenced for using crack cocaine were

Black, even though 66% of crack cocaine users nationwide at that time were white or Hispanic, as shown in Figure 2.

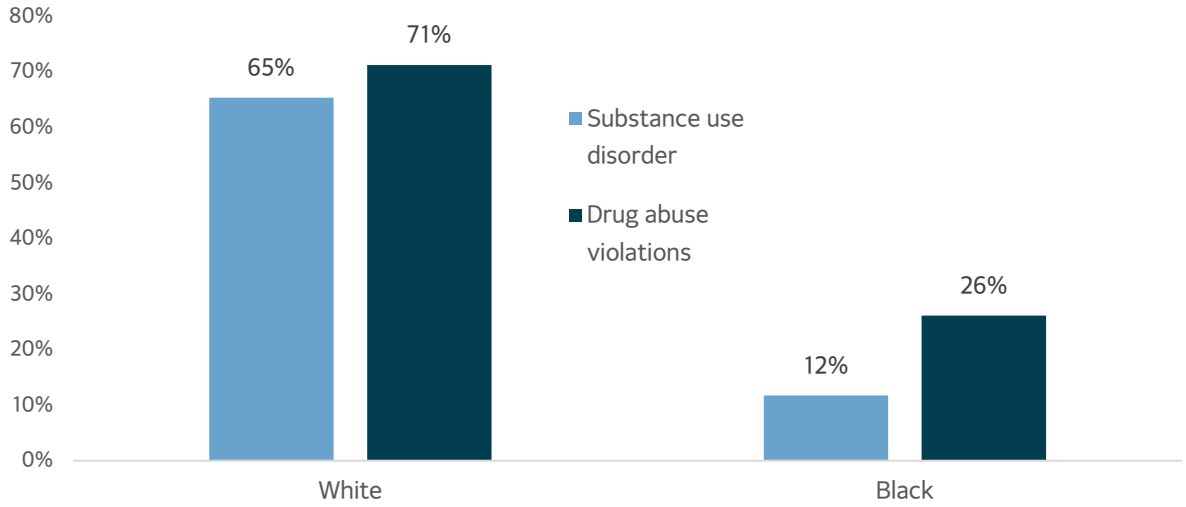
Figure 2: Black Americans were four times more likely to be arrested for crack cocaine despite half the usage of Whites and Hispanic Americans in 2003



Source: AddictionHelp.com

Nationwide, Black Americans were four times more likely to be arrested for cannabis, according to a 2013 ACLU report. In some places in the U.S., Black people have been 11 times more likely than white people to be arrested for drug possession. Having a record in the criminal justice system, even if arrested but not convicted, can further exacerbate inequalities by making it harder for an individual to find employment. When a person is required to pay fees to expunge a criminal record, only those with sufficient financial means can break this cycle. In 2023, the Oregon Audits Division plans to issue a report on cannabis licensing including a review of systemic barriers that hinder regulatory and social equity.

Figure 3: Drug violations target Black Americans at a rate more than twice as high as the number who are identified with substance use disorders



Source: Substance Abuse and Mental Health Services Administration and FBI, 2019

As shown in Figure 3, reports from the Substance Abuse and Mental Health Services Administration and FBI from 2019 show how drug violations disproportionally impact Black Americans. During 2019, Black Americans represented only 12% of individuals with substance use disorders while representing 26% of individuals arrested for drug abuse violations.

Mandatory minimum sentencing guidelines for repeat offenders, developed during the height of the War on Drugs, have historically imposed harsh sentences on Black people for possessions of small amounts of drugs. In one case from 2011, a repeat offender was sentenced to 13 years when police discovered two cannabis joints on him.

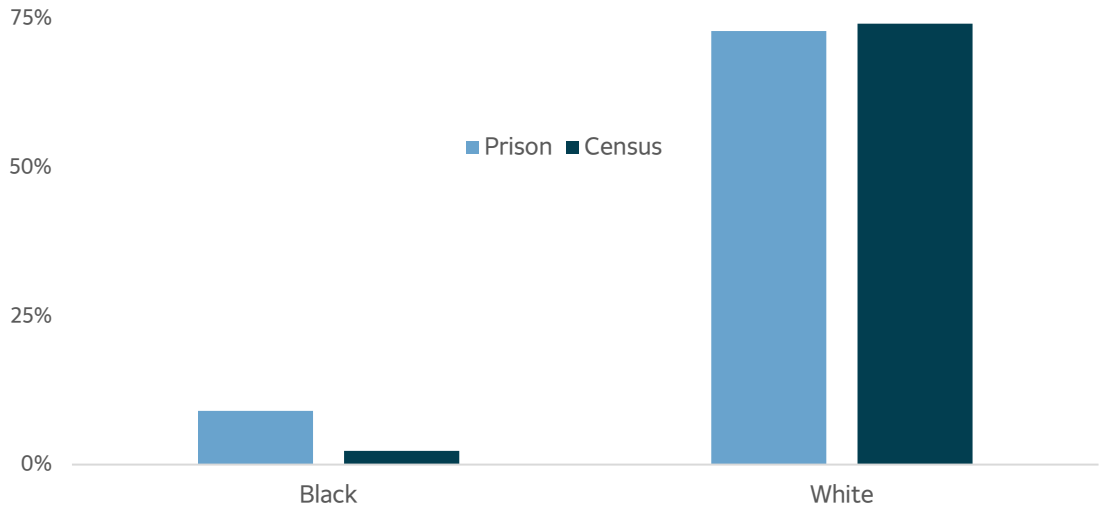
Targeted arrests and lengthy prison sentences are not the only ways the War on Drugs has magnified inequities. Law enforcement nationwide has used asset forfeiture laws to seize property from suspected drug offenders. This practice has made it easier to single out and victimize people of color. While these laws were originally intended to target large trafficking organizations, in practice, most cases involving property seizure have targeted low-level offenders in economically depressed neighborhoods.

Other non-criminal enforcement practices have included barring access to public housing, cash assistance, food assistance, voting, and student financial aid. Furthermore, a legal immigrant with a green card who is subjectively determined to be a “drug abuser” or “drug addict” can be deported for that reason alone. These administrative penalties inequitably affect people of color more than others.

Oregon prison demographics show disproportionate outcomes for Black, Indigenous, and people of color, but not due to drug possession alone

Demographic data clearly shows that Black, Indigenous, and people of color face higher rates of incarceration per capita than white adults. According to the Census Bureau, Black people make up about 2% of the population in Oregon, yet they represent approximately 9% of the prison population, as shown in Figure 4. In other words, Black people are almost four times more likely to end up in prison than demographics suggest. Indigenous people also face over 62% increase in their risk of ending up in custody relative to Caucasians.

Figure 4: Black people are almost four times more likely to end up in Oregon prisons than demographics suggest



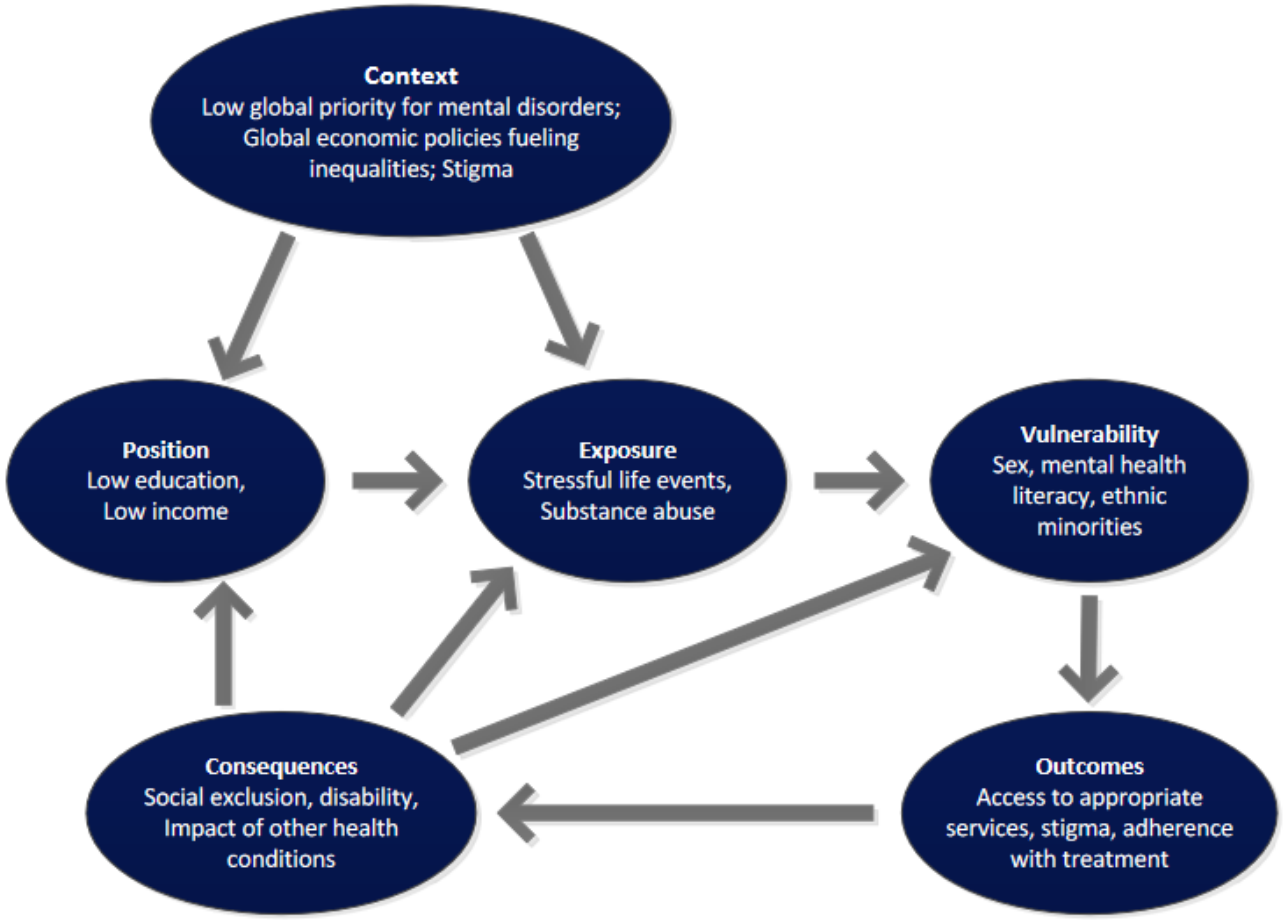
Source: U.S. Census and Department of Corrections

Prior to M110, Oregon had no adults in custody serving time in prison for solely drug possession-related offenses. The Oregon Department of Corrections noted that existing sentencing guidelines would have prevented someone from serving time for drug possession alone. Department officials reported other crimes, such as property or people crimes, would need to be committed to end up in their custody.

Prior to M110, Oregon had no adults in custody serving time in prison for solely drug possession-related offenses. As a result, there are no savings resulting from fewer individuals being incarcerated due to the drug decriminalization aspects of M110.

The state prison forecast, issued by the Office of Economic Analysis, was unchanged as a result of M110. As a result, there are no savings resulting from fewer individuals being incarcerated due to the drug decriminalization aspects of M110. However, other areas of public safety spending, such as the court system, may see savings. A recent study found that the number of police service calls in Portland has remained unchanged after M110 was enacted.[11] In other words, data suggest that M110 has not increased police workloads.

Figure 5: Social determinants of health create a feedback loop that disproportionately impacts minorities



Source: Oxford Textbook of Public Health

[11] Building the Evidence: Understanding the Impacts of Drug Decriminalization in Oregon

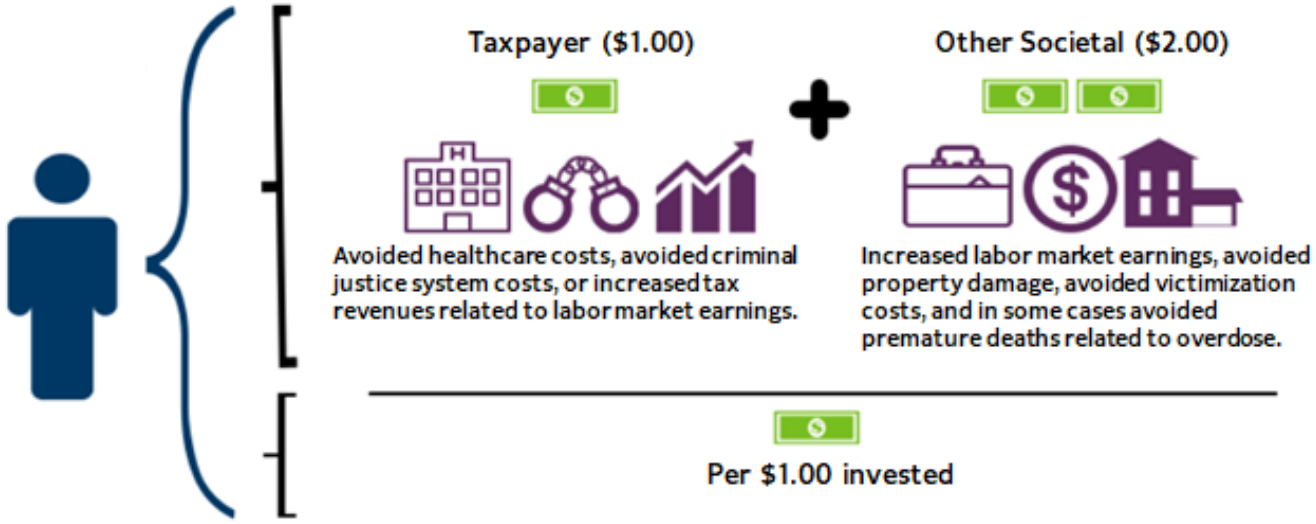
Inadequate access to substance use treatment services contributes to a costly cycle of inequitable outcomes

Substance use disorder is a medical condition that often requires professional support to overcome. Without this support, people with substance use disorders are likely to be stuck in a cycle of drug addiction. According to experts, for someone addicted to heroin, methamphetamine, or another controlled substance, there is often a small window of time during which the person is capable of and willing to accept an offer for treatment or recovery support. If the person is unable to receive help in that limited time, they are likely to continue using, increasing the risk of overdose and potential death. Members of BIPOC communities have less access to treatment and support services than the general population. This creates barriers to recovery and further increases the risk of overdose death for this population.

Some recovering substance use disorder patients have reported standing hours in line to receive help, only to be turned away because of capacity constraints. These patients recall continuing to use drugs only because they could not access help when they sought it.[12]

Studies show the benefits of investment in treatment and prevention programs consistently outweigh the cost of those programs. A report from California found the cost-benefit ratio can be as great as seven dollars of benefit for each dollar of investment. The benefits of investment are broadly situated in two categories: taxpayer savings and other societal savings. Taxpayer savings come from reduced criminal justice costs associated with incarceration, health care costs associated with emergency room visits, and increased tax revenue from payroll taxes. Other societal savings include reductions in property damage and thefts and lower public safety and health care expenditures associated with overdose deaths. Studies demonstrate the other societal benefit often exceeds the cost of investment itself. See Figure 6 for an illustration of a hypothetical savings ratio.

Figure 6: Savings and benefits often exceed investment required in substance use disorder treatment and prevention programs



Source: Minnesota Department of Management and Budget, 2017

[12] See pages 21-22 for testimonies of people in recovery who sought support after release from prison, only to be turned away, and eventually ended up back in prison due to other crimes they committed.

Audit Results

M110 was designed to be a change in how Oregon addresses substance use disorders. The measure sought to shift Oregon away from responding to drug possession with law enforcement toward compassionate, health care-based treatment. M110 decriminalized the possession of personal use amounts of controlled substances and cited several goals, including saving lives, increasing access to treatment, and providing more equitable outcomes for people of color.

This first-in-the-nation policy is uncharted territory, and its implementation has thus far encountered multiple setbacks. After months of delays, BHRNs have been established and funded. Time will tell how effective M110 is at achieving its goals but implementing the recommendations from this and future audits should help maximize its impact. This report is the first of three required audits under M110. Two additional reports examining the functioning of the grant-making process and the outcomes and effectiveness of M110 will be released no later than December 31, 2024

The law includes dedicated state funds for bolstering recovery support services. M110 also required the creation of a statewide telephone hotline for individuals to call and receive a health assessment. This assessment is intended to serve as a first step for those seeking support. The OAC and OHA are collaborating to implement the requirements of the program to increase access to such services, especially for communities of color that have been unjustly targeted by anti-drug enforcement campaigns for decades.

We found OHA can do more to support sound and transparent grant processes, roles and responsibilities can be more clearly defined, and stakeholder collaboration can be improved. We found more must be done to expand the collection and reporting of data. Without sufficient data collection and reporting, it will be impossible to effectively measure the outcomes and effectiveness of M110.

Measure 110 needs better data to evaluate if the program is working

The complex, decentralized, and ever-changing nature of health records and systems has consistently hindered data collection efforts. Previous audits from this office have routinely found gaps in collecting and analyzing accurate, meaningful data. Without such data collection, gauging M110 success and making future improvements will be difficult. OHA developed and communicated guidelines for reporting and should ensure BHRNs are able to provide consistent service-level data. Understanding there will be varying degrees of capability based on the BHRN, OHA should work to streamline the process so even the smallest of providers can provide the same crucial data as a large organization.

During the initial implementation of M110, OHA awarded $33 million in Access to Care grants. Little to no data was collected by OHA for these awards and auditors were unable to determine the effectiveness of the Access to Care grants. OHA could not provide data that showed how these funds were spent or how these grants improved access to substance use disorder treatment and services.

OHA has begun efforts to collect some data from M110 providers; however, this effort is limited in nature. OHA officials noted many providers were small and new to the state health care system. OHA officials believe imposing rigorous data collection and reporting requirements will be unduly burdensome.

OHA officials also noted, given the nature of some treatment services, data collection may be difficult. For example, if a provider is offering harm reduction services through a needle exchange on the street, it may be difficult to collect demographic information about the people being served. In initial efforts, OHA planned to collect data on financials and program outcomes separately. Having a relationship between services delivered and funding source would be beneficial as it allows for assessing if M110 funds are being effectively used.

Without sufficient data collection and reporting, it will be impossible to effectively measure the outcomes and effectiveness of M110.

Furthermore, a number of audit requirements under M110 include assessing changes to treatment access and other performance measures. Many of these performance measures lack data to establish a pre-M110 baseline. Without sufficient data collection and reporting, it will be impossible to effectively measure the outcomes and effectiveness of M110.

Similar care must be taken to collect data from other sources important to M110 program operations. The Recovery Center Hotline serves as an initial point of contact for many individuals who access the BHRNs. This point of contact is a key opportunity to gather information useful for assessing the program. Auditors found data provided for hotline calls contained unknown information and was not complete.

It is important to capture consistent, complete data about M110 to better understand the program's effectiveness and where improvements may be necessary.

Oregon's implementation of M110 experienced a challenging beginning owing to unclear roles and responsibilities and inadequate initial support from OHA

As of September 2, 2022, the OAC approved funding for BHRNs in all 36 Oregon counties. However, the path to achieve this milestone was beset by delays and public friction that could have been mitigated with more proactive guidance from OHA. The delays and visible challenges of the program resulted in frequent negative public perception that will need to be managed in the future.

The M110 statute is vague about the nature of the relationship between OHA and the OAC, and does not enumerate specific support activities and expectations for OHA. The lack of explicit guidance in this law impeded a timely and effective implementation of the program which was exacerbated by unrealistic timelines embedded within the law. For example, the initial ballot measure required the M110 program be stood up and BHRNs be funded in just nine months. Such a timeline is not feasible for a new, complex state program. See Appendix A for the timeline of M110 implementation milestones.

As a result of this statutory ambiguity, OHA did not provide sufficient technical and administrative support to the OAC at points in the M110 implementation process. OHA adopted a strategic position of interpreting M110 in a manner to not compromise or give the appearance of compromising the independence of the OAC's decision-making authority. However, most OAC members lacked experience in designing, evaluating, and administrating a governmental grant application process.

Additional proactive guidance from OHA subject matter experts would have benefitted the OAC in its process of creating requests for grant applications and evaluating applications received.

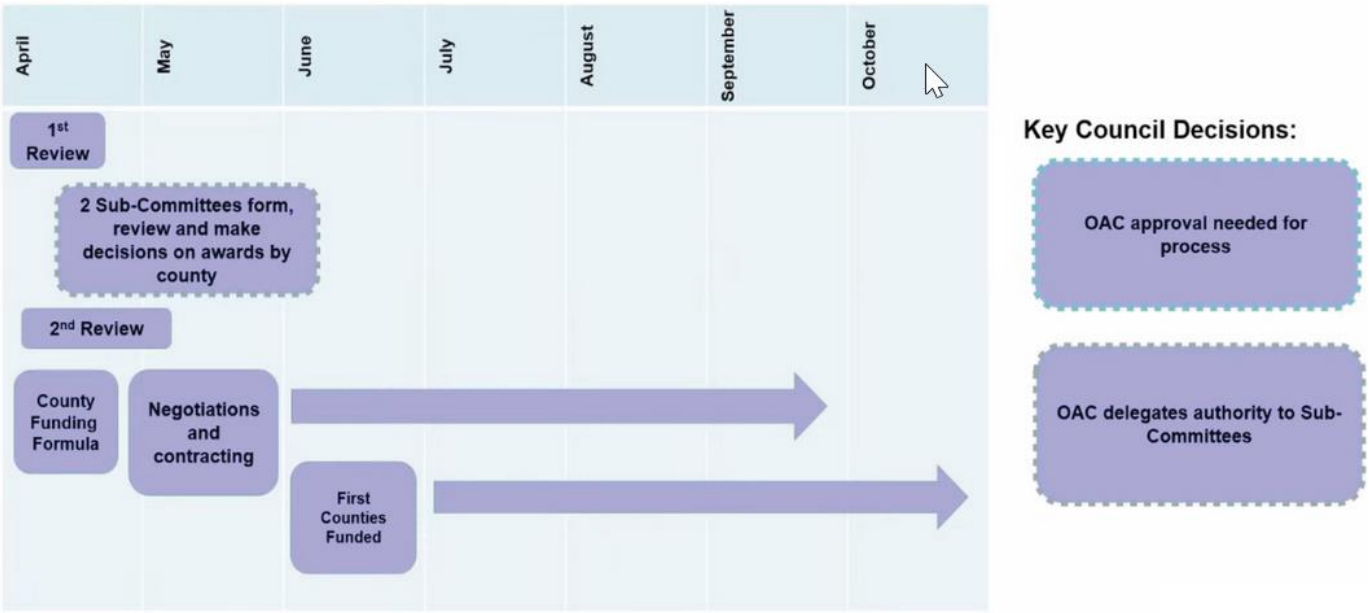
The OAC has sufficient independence and authority to carry out its mission; however, its capability may be undermined by insufficient guidance and resources. Council members told auditors they have been unable to effectively make use of that authority at times due to lack of experience or leadership. OHA should continue to promote the OAC's authority by providing training, support, and resources to meet program objectives.

The BHRN grant evaluation process is inefficient and can be improved by adopting leading grant management practices

The process to evaluate grant applications contributed to multiple delays contrary to the intent of M110, which sought timely funding for community organizations to offer substance use disorder recovery support. The OAC designed and approved the grant evaluation rubric and its design contributed significantly to the delays because it required over 240 points of information for each application. Many of the grant application questions required lengthy responses.

Organizations that applied for M110 grants noted repeatedly the grant application process was burdensome to complete and challenging to navigate given the repeated delays and conflicting guidance from different OHA staff at different times. For example, one provider reported they were told they needed to submit a document through one system, but that requirement changed and they were not notified, resulting in their disqualification.

Figure 7: The BHRN application evaluation process relied on collaborative effort with multiple levels of OHA review and OAC votes



Source: Oregon Health Authority

OHA provided initial grant applications to OAC members to evaluate. OHA received more grant applications than it had anticipated — more than 300 in total, all of which were passed to OAC members for evaluation. The time needed to complete the application evaluation process was significant, and the OAC lacked the capacity to complete all the detailed reviews in a timely manner.

OAC members, who are all volunteers — and many of whom have full-time jobs — stated they spent as much as 40 hours a week completing evaluations and attending required meetings.

Based partly on underestimation of application volume, as well as the evaluation rubric itself being unclear, inefficient, and difficult to use, the OAC evaluation process was delayed and then halted altogether as 19 of 23 meetings were canceled between February 9 and April 4, 2022.

> One OAC member noted they spent over 100 hours working on grant evaluations just to have that work returned to them and marked incomplete by OHA reviewers.

OHA eventually provided additional staffing resources. Specifically, OHA temporarily re-assigned over 100 staff from other divisions to complete the initial grant evaluations in the spring of 2022. The OAC then voted upon OHA's funding recommendations for each application. The voting process and subsequent funding negotiations added several additional months — votes began in April and finished in June 2022, and funding negotiations were completed by August 2022.

Furthermore, the grant evaluation process was not consistently followed after changes were enacted to allow OHA staff to evaluate grants and provide recommendations to the OAC. Auditors found some application evaluations were incomplete or did not adhere to guidance. Additionally, a process to document discrepancies between OAC member votes and OHA staff recommendations was not followed and no explanation was provided.

Policies and procedures should be clear and applied consistently to maximize their impact. Similarly, reporting lines governing those policies should also be clear. Auditors noted several instances where discrepancies existed based on a limited review of selected evaluations. In several instances, fields that required a response were blank. In other instances, evaluation fields that required a written response were instead left with a "yes" or "no" and contained no elaboration.

> The resulting frustration and continued delays manifested in two OAC members removing themselves from the evaluation committee and 19 OAC meeting cancellations in a two-month period.

The confusion and changes surrounding this process led to frustration and strained relations between OHA and the OAC. Efforts should be made on behalf of both entities to institutionalize an evaluation process that can be carried through future cycles with the expectation that many applications are likely, and resources may need to be allocated accordingly. The resulting frustration and continued delays manifested in two OAC members removing themselves from the evaluation committee and 19 OAC meeting cancellations in a two-month period.

The U.S. Government Accountability Office has previously used guidelines for assessing the effectiveness of grant management practices. These leading practices are summarized in Figure 8, along with an evaluative summary of the extent to which OHA and the OAC met these standards in their implementation of M110.

Figure 8: OHA has not met the leading grants management practices identified by the U.S. Government Accountability Office

GAO Leading Practice	What OHA/OAC did	Was criteria met?
Prior to the competition, provide applicants with application assistance and outreach, including information on dates, eligibility, review process, selection criteria, funding priorities	OHA held public meetings and provided updates via website. Applicants noted receiving current information was a challenge and requests were not always answered timely. Applicants also reported communication was not proactive.	☑ Partially
Identify reviewers, method for recording results of technical review, method for resolving scoring discrepancies, method for oversight to ensure review consistency	OAC initially planned to review all applications, but delays occurred due to lack of readiness for the application volume. The plan was changed and approximately 100 OHA staff performed the reviews resulting in an inconsistent evaluation process.	☑ Partially
Develop a technical review panel consisting of reviewers with relevant expertise, do not have conflicts of interest, apply the appropriate criteria, and are trained.	Applications assessed by reviewers without specific program expertise. Sufficient grant evaluation training was not provided to OAC members or OHA evaluators. External knowledge of applicants may have influenced OAC votes.	☒ No
Assess applicants' abilities to account for funds by determining applicant eligibility, checking previous grant history, assessing financial management systems, and analyzing project budgets.	Applicants were assessed by reviewers and OAC. However, reviewers were not allowed to consider an applicant's previous performance for M110 Access to Care grants.	☑ Partially
Inform unsuccessful and successful applicants of selection decisions in writing and provide feedback on applications	Applicants were notified but feedback and consistent communication appears limited due to resource capacity.	☑ Partially
Document rationale for why individual projects were selected or not selected; how changes made to requested funding amounts may affect applicants' programs.	Rationale beyond a yes or no notification to applicants is not always clear. Some applicants filed complaints about perceived unfairness and inconsistent review process. Documentation of discrepancies between BHRN application evaluator and OAC vote is not maintained according to written procedure.	☑ Partially

Council policies governing member compensation and conflicts of interest need improvement for sustainability

Barring legislative action in 2023, OAC members will complete their respective terms at the same time which is likely to cause significant disruption. Staggered terms would allow for a consistent knowledge transfer and avoid disruption associated with complete council turnover.

Stipend payments to OAC members can be more consistent. Members can receive stipends of $155 per day for their time serving the council; however, it is unclear if all members understand the stipend

process. Only seven members received stipends for their time from July 2021 through June 2022. Auditors observed one OAC member state they were not aware they could submit a request for stipend. Additionally, some members are prohibited from receiving a stipend. For example, OAC members who are compensated by their employer for OAC duties are ineligible. OHA support staff should standardize communication to OAC members on how and when submit stipend requests, keep documentation on file for those members who do not meet conditions for stipends, and track total stipend spending.

Potential conflicts of interest are mitigated by signed statements of economic interest, trainings provided by the Oregon Government Ethics Commission, and recusal of members on matters of voting where a conflict may exist. However, confusion around what constitutes a conflict of interest still exists among OAC members. In particular, the risk exists that bias, or external knowledge of BHRN applicants, may factor into consideration for OAC votes to approve or deny funding. While such instances do not meet the statutory definition for a conflict of interest,[13] they may violate the procedure for materials to consider in review of grant application. On several occasions, OAC members referenced personal knowledge rather than materials in the grant applications when making funding decisions.

In particular, the risk exists that bias, or external knowledge of BHRN applicants, may factor into consideration for OAC votes to approve or deny funding. While such instances do not meet the statutory definition for a conflict of interest, they may violate the procedure for materials to consider in review of grant application. On several occasions, OAC members referenced personal knowledge rather than materials in the grant applications when making funding decisions.

OHA is fulfilling its duties in managing M110 funds; however, it can improve some of its M110 support activities including enhancing hotline transparency

In addition to implementing BHRNs, supporting the OAC, and overseeing grantee performance, M110 also requires OHA to manage disbursements from the Drug Treatment and Recovery Services Fund and establish a statewide phone hotline known as the Recovery Center Hotline.

M110 requires OHA does not exceed a 4% maximum for administrative expenditures. Based on financial data available as of September 22, 2022, M110 administrative expenditures totaled 7% of total fund expenditures. However, additional funds remain to be distributed to BHRNs during the remainder of the 2021-23 biennium, which will affect the ratio of administrative expenditures to grant distributions. Based on information currently available, auditors are unable to determine if OHA will ultimately comply with the 4% requirement. OHA should proceed by complying with the 4% allowance for administrative costs. A future audit may address administrative program costs.

OHA has also fulfilled its requirement to establish the Recovery Center Hotline. The hotline operator reported as of June 2022 they received 119 M110-specific calls. Staff performed screenings for those calls and identified 27 individuals interested in treatment resources. An existing drug and alcohol

[13] Conflicts of interest are outlined in ORS 244; for more detailed information, see also audit report 2021-14: Oregon's Ethics Commission and Laws Could Be Better Leveraged to Improve Ethical Culture and Trust in Government. This issue relating to conflicts of interest is not unique to the OAC and may warrant broader review of existing conflict of interest statutes to identify potential gaps.

hotline received over 10,000 calls per year during the pandemic, up from about 5,000 calls per year before the pandemic, according to the same hotline operator.

During the first 15 months, the hotline had a total of 119 calls, a cost of over $7,000 per call. It is unclear if the M110-specific hotline provides the best value given limited state resources.

OHA could make hotline metrics more transparent by maintaining a log of all phone calls and sharing these records with the OAC. Initial hotline metrics do not show significant value derived from the resources allocated to the hotline. During the first 15 months, the hotline had a total of 119 calls, a cost of over $7,000 per call. It is unclear if the M110-specific hotline provides the best value given limited state resources, especially as the hotline contractor already has two related hotlines, the Alcohol & Drug Helpline and the Oregon Behavioral Health Support Line.[14] The hotline should be re-evaluated given existing contracts for the Alcohol & Drug Helpline and the Oregon Behavioral Health Support Line, both of which are distinct and separate from the Recovery Center Hotline funded by M110.

Duplication of hotline services may jeopardize program efficiency and risk redundant use of taxpayer funds

Required statewide hotline operations may duplicate services provided by other hotlines.

Some BHRNs provide telephone hotline services so people suffering from substance use disorders can seek recovery and support service information from a local provider. These services may be duplicative since current law requires such support also be provided through a statewide hotline. At the time of this report's release, OHA still had plans to continue the statewide hotline in addition to any redundant hotline services provided by BHRNs. OHA told auditors reducing potential hotline redundancy is not its legal responsibility, and it does not plan to work to prevent the risk of such redundancy as a result.

Further risk to hotline efficiency remains in the collecting and reporting of transparent metrics. Despite multiple requests, auditors were unable to obtain M110-specific phone logs. M110 required the establishment of the hotline by February 1, 2021. Auditors received evidence demonstrating the establishment date of March 1, 2021, from an email that summarized the number of hotline calls received. Although the email implied the hotline was operational, it did not contain any evidence, such as a call log or system generated report. M110 also requires the hotline provide screenings by certified specialists, assess a caller's need, and link them to all appropriate services. Auditors were unable to verify whether or not this occurred during these calls.

Instead of training the pre-existing staff to field M110 calls, the hotline contractor hired new staff for M110 calls. The law requires the hotline to be staffed 24 hours a day, seven days a week. Six staff were

[14] The Behavioral Health Support Line provides behavioral health screenings, services, and referrals to providers. The Alcohol and Drug Helpline provides information, support or access to resources and treatment for alcohol or drug use. Both hotlines are provided by the same contractor.

hired using approximately $800,000 of M110 funds and worked from 8:00 a.m. to 5:00 p.m. Pre-existing hotline staff, who answer calls for a separate hotline, take M110-specific calls during hours when M110 staff are not working. An analysis of staff numbers, staff training, volume of non-M110 substance use calls, and volume of M110 citation calls could be valuable in helping to reduce the risk of potential inefficiencies and redundancies in future hotline service.

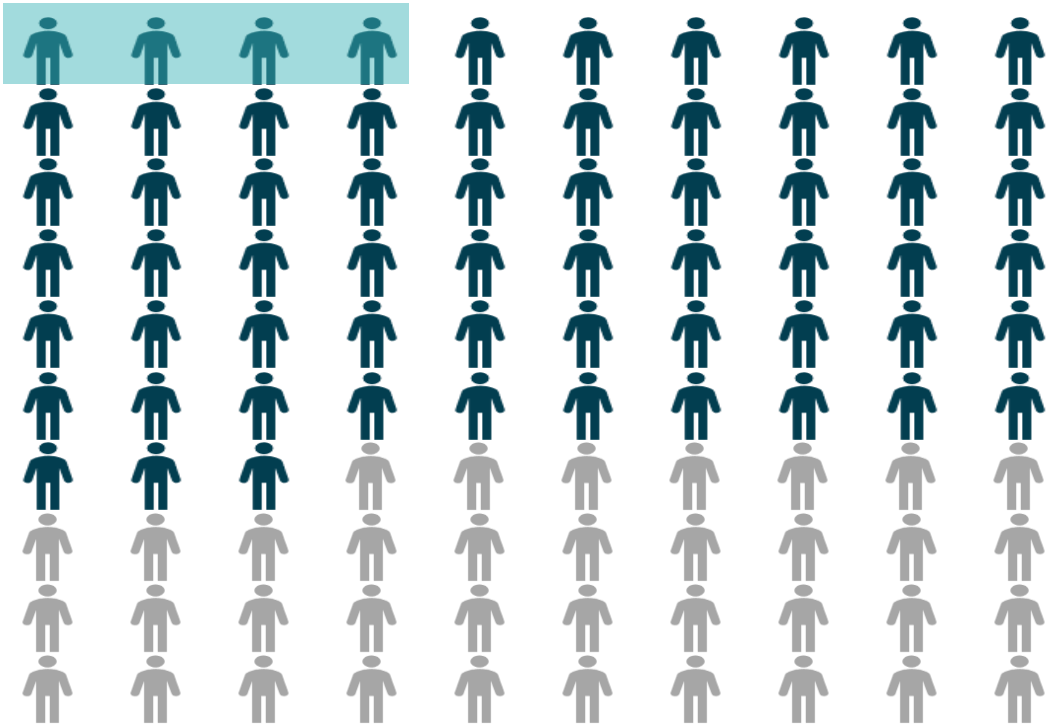
Stakeholder collaboration could be improved, especially with public safety and housing organizations

M110 established the OAC as the governing body over the program and tasked OHA with supporting the OAC but did not clearly address collaboration with other potential partners. Entities such as the Department of Corrections and Oregon Housing Community Services play a critical role in the intersection of substance use disorder, the criminal justice system, and homelessness. Due to the complexity of these issues, and the underlying social determinants of health, we recommend the OAC expand collaborative efforts with these partner agencies. Increased collaboration may call for an appropriately proportionate increase in OHA staff support.

Cooperation with law enforcement entities at a program level may be important for long-term program consistency

As shown in Figure 9, 63% of adults in custody at the Department of Corrections experience substance use disorders; however, less than 5% have access to intensive treatment while in custody. We spoke with several adults in custody who shared their experiences (see pages 21 and 22). The lack of access to treatment in and out of custody has been a missed opportunity for the state.

Figure 9: Over 63% of adults in custody experience substance use disorders, and only 4% get access to intensive treatment in prison



Source: Auditor created based on data from the Oregon Department of Corrections

As noted earlier, the War on Drugs increased the number of adults incarcerated and had a disproportionate impact on BIPOC communities. Oregon currently has 12,223 adults in custody housed in state prisons. According to the Department of Corrections, 7,725 of those in custody were assessed with substance use disorder; however, no individuals were serving time for drug possession alone. Proactive measures and support are necessary to address the needs of this population and right some of the historical policy wrongs. Only a few hundred adults in custody get access to intensive substance use disorder treatment per year.

> Proactive measures and support are necessary to address the needs of this population and right some of the historical policy wrongs. Each year only a few hundred adults-in-custody out of thousands with substance use disorder, get access to intensive treatment.

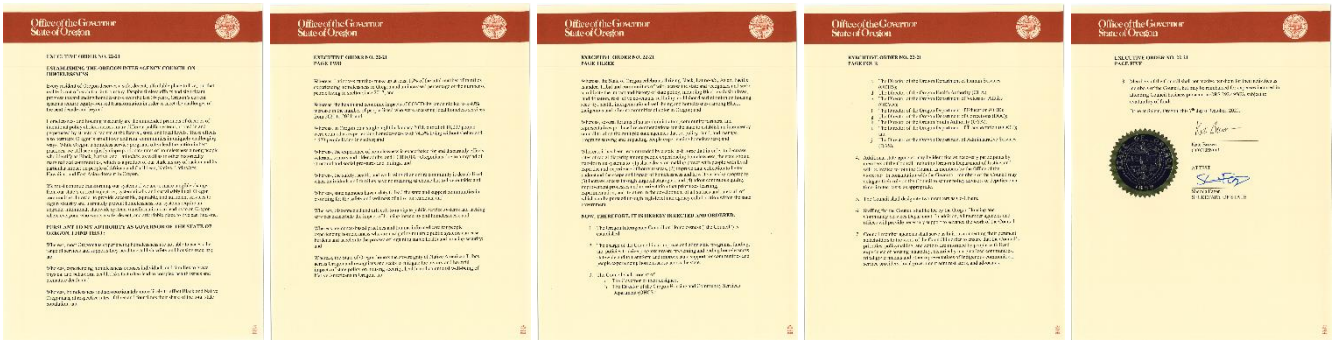
Law enforcement also plays a role elsewhere in the M110 program in their responsibility to issue Class E citations to individuals possessing small amounts of controlled substances. Auditors were told by various jurisdictions they handled this process with some degree of variability, with some issuing many citations while others may show reluctance in engaging this process. Further still, when a citation is issued, there is variability in whether the issuing officer proactively provides the M110 hotline phone number and encourages it to be called. Law enforcement agencies sharing limited information with providers may help increase outreach to individuals who may need help taking the first step to recovery. Steps to unify statewide process for issuing class E citations and promoting the hotline should also be taken.

The intersection of housing and substance use disorders offers opportunity for increased collaboration with housing agencies

The ballot measure for the M110 program did not contain language explicitly directing OHA and the OAC to collaborate with housing agencies such as Oregon Housing and Community Services. While some BHRNs may be funded to provide housing services, other BHRNs may not have a housing component. OAC members told auditors that collaboration with housing agencies is one of the biggest opportunities to increase the impact of program. OHCS recognizes the linkage between substance use disorder and homelessness. Housing officials noted they were open to any opportunities to collaborate.

On October 7, 2022, Oregon's Governor signed an executive order establishing the Interagency Council on Homelessness. This new council represents an opportunity for OHA, the OAC, and BHRNs to leverage resources and housing expertise.

Executive Order 22-21: Establishing the Interagency Council on Homelessness



There is a human cost to the siloed nature of substance use disorder treatment

Adults in custody participate in the Alternative Incarceration Program. | Source: Department of Corrections

Fragmentation within the treatment system presents an access challenge for all Oregonians, including those currently in state custody. Some of Oregon's most vulnerable population are those who are currently serving a sentence in a state correctional facility. Many adults in custody committed crimes to pay for substance addictions and never received the timely or effective treatment and support that might have helped them at earlier points in their substance use struggles.

Without addressing these recovery support and treatment access challenges, these individuals will continue to face higher risks of negative health outcomes. Auditors visited the Coffee Creek Correctional Facility and interviewed women with substance use disorders who are currently serving a sentence and were willing to share their stories. The following case examples come from that visit and illustrate many of the challenges faced by adults in custody.

"Susan" had been prescribed Vicodin by a doctor, but when the prescription expired, she turned to heroin because — at first — it helped her manage the stress of being an unsupported 16-year-old mother.[15] On the street, heroin was cheaper than Vicodin. Susan's addiction led her to commit crimes which have sent her to prison twice. She was ineligible for intensive addiction treatment during her first time in prison. Upon release, she sought treatment, but did not receive sufficient support to stay sober and get her life on track. On parole, she said she lacked judgment while under the influence, stole a bait package[16] off a porch, and returned to prison for a second time.

She is currently enrolled in the Alternative Incarceration Program (AIP) at Coffee Creek. Fifty adults-in-custody participants with a history of substance use disorders are engaged full-time in group and individual sessions with

Alternative Incarceration Program participants go through intensive alcohol and drug treatment in a group setting with peer and professional support. | Source: Department of Corrections

[15] Auditors used pseudonyms to protect privacy.
[16] A bait package is a law enforcement practice of planting a tracked fake package on a house doorstep in a high-theft area. The package is kept under close surveillance, and when a thief attempts to steal the package, law enforcement is nearby and ready to quickly arrest the thief.

therapists for the full day, beginning at 7:30 each morning, five days a week, for the last six months of their prison sentence. Some of the activities are peer-facilitated or self-guided to encourage leadership development for participants. Susan said she likes herself when she is sober. She looks forward to getting out and getting a job. She knows where the support is when she gets out. She credits the AIP program for giving her a new sense of self-confidence and the ability to work.

"Molly" is also serving her second sentence and struggles with a substance use disorder. After a previous release from incarceration, she was informed of locations that provided support, but each service was geographically distant from one another and physically impossible for her to access. Molly was assaulted while living on the streets and started using heroin again to cope. She tried to enter a detox program but could not, due to lack of beds.

Now serving her second prison sentence, Molly has become a peer mentor in the AIP program. She knows of many adults-in-custody who would like to join such a treatment program but cannot because of capacity constraints.

An Alternative Incarceration Program participant at Coffee Creek Correctional Facility. | Source: Department of Corrections

She has observed fellow adults-in-custody express excitement when selected to join this program. AIP helps adults-in-custody transform their communication and thought processes and prepare them for a life outside prison. She said the most important thing is to make outside support services — such as employment, housing, trauma support, etc. — integrated and available in one easily accessible place. She thinks such treatment and support services would help her and others more than the court system, which did not help her the first time around.

During the visit to Coffee Creek, auditors were approached by several women housed in the general population area of the prison. These women all spoke about the need for increased treatment within the facility and the limited opportunities to get access to intensive treatment programs like the AIP.

At a cost of $8,000 per person for a six-month intensive residential substance use disorder treatment program, DOC programs likely offer **some of the best value and potential return on investment** for the state.

BHRN grant management and data collection present significant risks to program transparency and outcomes

To bridge the funding gap between when the ballot measure was passed and when BHRNs would be approved, over $33 million in funding known as Access to Care grants were disbursed to recipients statewide. These grants were rapidly disbursed through cooperation between OHA and the Oregon Department of Justice. OHA has not had the capacity to adequately monitor these funds. Turnover at the staff level has further complicated monitoring procedures. Reporting and monitoring procedures should be clearly documented and communicated between OHA and the BHRNs.

Grant administration practices must be more robust to provide program transparency and measure its effectiveness

Some grant recipients noted confusion surrounding the application, award, and renewal process for the Access to Care grants. One recipient noted they were awarded renewal funding without asking for funding. As a result, this recipient chose to abstain from spending those funds in anticipation they would be recalled as an improper payment. Other recipients stated they supplied all necessary reporting as required but did not necessarily receive confirmation as communication is limited. OHA staff responsible for monitoring these reports were concerned in their ability to effectively ensure compliance with grant requirements was met. Staff were stretched thin as they were responsible for administering over 100 grants. This concern was compounded by frequent staff turnover in the position responsible for grant monitoring.

Clear grant reporting and monitoring procedures will be critical in ensuring BHRN grant compliance and understanding where future improvements may be made. OHA has provided a detailed set of instructions for reporting on the M110 website; however, some recipients note a lack of communication directing them where to look for such information. OHA should continue to improve communication to BHRN recipients and ensure adequate staff are available to monitor reporting from the many recipients. Recipient monitoring procedures should be documented and accessible for training purposes and in the event of turnover.

Audit recommendations will be an important tool to shaping this innovative program as it is implemented

M110 was designed to be a change in how Oregon addresses substance use disorders. The measure sought to shift Oregon away from responding to drug possession with law enforcement toward compassionate, health care-based treatment. The measure cited several goals, including savings lives, increasing access to treatment, and providing more equitable outcomes for people of color.

This first-in-the-nation policy is uncharted territory, and its implementation has thus far encountered multiple setbacks. After months of delays, BHRNs have been established and funded. Time will tell how effective M110 is at achieving its goals, but implementing the recommendations from this and future audits should help maximize its impact.

This report is the first of the three required audits under M110. Upcoming work includes a financial review and a performance audit, with reports to be released no later than December 31, 2024. The financial review will examine the functioning of the grants and funding system, barriers in the grant

process, and whether grants are aligned with the intent of M110. The upcoming performance audit will examine the outcomes and effectiveness of M110.

As we noted in our findings and recommendations, the biggest risk to the program is that without sufficient data collection and reporting, it will be impossible to effectively measure the outcomes and effectiveness of M110. The OAC and OHA should do more to ensure sufficient and appropriate data is collected to evaluate the program and how hundreds of millions of dollars will be spent.

Recommendations

Recognizing resource limitations brought on by multiple crises, including COVID-19, and existing statutory authority, OHA should:

1. Publish a plan by September 2023 for how the M110 program integrates into the overall behavioral health system in Oregon.
2. Identify and document gaps that prevent detailed metrics from being implemented that would track the overall effectiveness and impact of M110.
    a. Develop and communicate a plan for addressing the gaps to appropriate stakeholders. Emphasis should be placed on developing metrics that allow policy makers and the public to effectively assess the impact and effectiveness of the M110 program.
3. Document policies and procedures for the M110 program, including:
    a. Clear expectations, roles, and responsibilities; and,
    b. Trainings for grant applicants and evaluators, grants management, stipends, and conflicts of interest.
4. Recommend to the OAC to expand collaboration with:
    a. The Department of Corrections to address substance use disorders of adults in custody;
    b. Housing stakeholders such as Oregon Housing and Community Services and the Oregon Interagency Council on Homelessness to leverage expertise specifically on the intersection of housing and substance use disorder;
    c. Opioid Settlement Prevention, Treatment and Recovery Board to coordinate investments to address the effects of the opioid crisis.

For consideration by the Oregon Legislature, we recommend addressing the following risk areas in law:

5. Directing the OAC and OHA to collect sufficient data to assess the effectiveness of M110, with a focus on answering questions policy makers and the public have about M110.
6. Updating statutes to eliminate the potential overlap and inefficiency caused by requirements for a statewide recovery hotline and individual BHRN hotlines and the existing Drug and Alcohol Prevention Hotline;
7. Provide explicit direction to OHA to provide proactive support, assistance, and training to the OAC where appropriate.
8. Revise OAC appointment terms to stagger each appointment cycle in order to prevent complete turnover of the council.

Objective, Scope, and Methodology

Objective

The objective of this audit was to examine specific elements of M110 as required by Senate Bill 755 including the effectiveness of governance provided by OHA and the OAC to meet the intent of the ballot measure and associated legislation. See Appendix B for detailed audit requirements.

Scope

The audit focused on efforts made by OHA and the OAC to implement the state's new BHRN program to serve families and individuals affected by substance use disorder.

Methodology

To address our objective, we used a methodology that included conducting interviews, site visits, and reviewing documentation. We interviewed OHA executives, managers, and staff. We also interviewed the vast majority OAC members and various stakeholder groups representing providers, public safety agencies, housing agencies, and other groups. We observed treatment provided to adults in custody at Coffee Creek Correctional Facility and participated in a focus group of providers.

We reviewed laws, administrative rules, and contracts. We examined OHA planning documents, performance measures, annual reports, and budgets. We reviewed additional studies, reports, and data. We watched archived video recordings of full council and BHRN subcommittee meetings of the OAC.

This audit was conducted in real-time while M110 implementation was still underway and BHRNs not yet operational. We provided feedback to the agency throughout the process, including issuance of an interim audit letter. Due to M110's first-in-the-nation nature, we were limited in our ability to compare M110 with other state comparators.

Internal control review

We determined that the following internal controls were relevant to our audit objective.[17]

- Control Environment
  - We reviewed organizational charts, agency budget, and staffing data.
- Risk Assessment
  - We interviewed Criminal Justice certification and Basic Police Academy staff.
- Control activities
  - We evaluated policies and procedures for measure 110 program implementation and the grant application and evaluation process.
- Information and communication
  - We observed OAC meetings and interviewed stakeholders.
- Monitoring activities

[17] Auditors relied on standards for internal controls from the U.S. Government Accountability Office, report GAO-14-704G.

- We interviewed OHA staff responsible for monitoring grants and evaluated program activity reports.

Deficiencies with these internal controls were documented in the results section of this report.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We sincerely appreciate the courtesies and cooperation extended by officials and employees of OHA and the OAC during the course of this audit.

Audit team
Ian Green, M.Econ, CGAP, CFE, CISA, CIA, Audit Manager
Casey Kopcho, CIA, Principal Auditor
Michael Pinkham, MPA, Staff Auditor

About the Secretary of State Audits Division

The Oregon Constitution provides that the Secretary of State shall be, by virtue of the office, Auditor of Public Accounts. The Audits Division performs this duty. The division reports to the elected Secretary of State and is independent of other agencies within the Executive, Legislative, and Judicial branches of Oregon government. The division has constitutional authority to audit all state officers, agencies, boards and commissions as well as administer municipal audit law.

Appendix A: Ballot Measure 110 Timeline

AUGUST 15, 2019
Secretary of State receives initial ballot measure

NOVEMBER 3, 2020
Ballot measure passes in general election

FEBRUARY 1, 2021
OHA meets deadline for establishing Oversight and Accountability Council (OAC)

FEBRUARY 19, 2021
First public meeting of the OAC

JUNE 30, 2021
OAC did not meet deadline for temporary rules

JULY 19, 2021
Oregon Governor signs Senate Bill (SB) 755 into law

SEPTEMBER 1, 2021
Temporary rules go into effect for OAC

OCTOBER 1, 2021
OAC did not meet deadline for establishing Addiction Recovery Centers

NOVEMBER 9, 2021
Application period opens for Behavioral Health Resource Networks (BHRNs)

DECEMBER 17, 2021
BHRN application period closes; application review begins

JANUARY 1, 2022
OAC did not meet original SB 755 deadline for BHRNs to be operational

FEBRUARY 9, 2022
First OAC votes on BHRN applications. Voting process postponed due to evaluation disagreements

FEBRUARY 9 – APRIL 4, 2022
OAC cancels 19 meetings due to ongoing evaluation disagreements, further delays in BHRN grant process

APRIL 13, 2022
OAC votes to approve first BHRN grant proposal and sends first BHRN applicant Letter of Intent

MAY 18, 2022
First BHRN grant agreement becomes effective in state

JUNE 2, 2022
Evaluation and voting on all BHRN applications is completed by OHA and OAC

AUGUST 31, 2022
Final BHRN funding agreements effective for all counties

Appendix B: M110 Audit Requirements

Senate Bill 755 required the Secretary of State Audits Division to perform the following:

- Assessment of:
  - the relationship between the OAC and OHA
  - the relationship between the OAC and recipients of grants or funding
  - the structural integrity of sections 1 to 9 of chapter 2, Oregon Laws 2021 (Ballot Measure 110); and,
- Assessment of:
  - Whether the organizational structure of the council contains conflicts or problems.
  - Whether the rules adopted by the council are clear and functioning properly.
  - Whether the council has sufficient authority and independence to achieve the council's mission.
  - Whether the authority is fulfilling authority's duties under sections 3, 4, 5, 9, and 23.
  - Whether there are conflicts of interest in the process of awarding grants or funding.
  - Whether there are opportunities to expand collaboration between the council and state agencies.
  - Whether barriers exist in data collection and evaluation mechanisms.
  - Who is providing the data.
  - Other areas identified by the division.

Appendix C: Interim Real-time Audit Letter

June 1, 2022

Patrick Allen, Director
Oregon Health Authority
800 NE Oregon St
Portland, OR 97232

Dear Director Allen:

The Oregon Secretary of State's Audits Division is engaged in a real-time audit of the Oversight and Accountability Council's (OAC) and the Oregon Health Authority's (OHA) implementation of Ballot Measure 110 (M110).[18] In alignment with the intent of our real-time audit program and legislative requirements, we are providing this interim letter to call your attention to areas of risk in the implementation of M110. This letter will outline our recommendations for mitigating these risks. The first recommendation is for legislative consideration, while the remaining recommendations are directed at the OAC and OHA. Senator Floyd Prozanski has received a copy of this letter as well.

1. M110 as written did not provide sufficient clarity around roles and responsibilities of OHA and the OAC. We recommend the Legislature provide additional clarity. For example, the language pertaining to specific oversight and accountability roles of OAC is vague. The OAC did not receive information about individual M110 grantee performance and did not receive public comments from meetings, despite asking OHA for these items. We recommend greater clarity is provided around the OAC's role and access to records needed to perform that role. While OHA has been charged with administering the integration of Oregon's health care system,[19] its role under M110 is also unclear given few provisions directed at OHA. The lack of clarity around roles and responsibilities has contributed to delays, confusion, and strained relations between OHA and the OAC.

2. OHA has not always provided adequate support to the OAC. This has contributed to delays in funding of Behavioral Health Resource Networks (BHRNs). The OAC is empowered by M110 to fund BHRNs but cannot complete this task without sufficient administrative groundwork being performed by OHA, such as reviewing and scoring grant applications and providing financial analyses. Significant staff transitions occurred in summer 2021, which diminished OHA's institutional knowledge of M110. OHA has, at times, assigned non-dedicated staff, working on multiple assignments, on the M110 implementation team. In May 2022, OHA announced new efforts to increase staffing resources to support M110 implementation. We recommend OHA continue to allocate sufficient, dedicated staff to support the OAC and related administrative activities. We also recommend the OHA provide timely and clear explanations in response to all OAC questions.

[18] As amended by Senate Bill 755 during the 2021 Regular Session.
[19] ORS 413.032(b) states OHA shall "Administer the Oregon Integrated and Coordinated Health Care Delivery System" and ORS 413.032(e) states OHA shall "Develop the policies for and the provision of mental health treatment and treatment of addictions."

3. The OAC developed an inefficient grant evaluation process, due in part to a lack of support and guidance. OHA could have provided a template for evaluation rubrics or counseled the OAC that adopting too many criteria would slow down the grant making. The OAC-adopted rubric is complex, with over 250 different elements. As a result, over 110,000 responses needed to be evaluated across 333 grant applications. We recommend OHA continue to provide proactive support, including best practices, templates, and financial analyses for the OAC's consideration.

4. Insufficient grant management and monitoring pose a risk that providers will not use funding in alignment with the equity and treatment support goals of M110. Limited monitoring and oversight processes exist over initial Access to Care grants and OHA has not finalized efforts to establish data collection and grant monitoring activities for BHRNs. M110 requires BHRNs be evaluated both on the performance of services delivered and the funding they receive. We recommend OHA develop robust grant management and monitoring processes, including ensuring sufficient data is collected to enable those processes. We also recommend OHA give sufficient support to the OAC while developing and voting on rules for data collection and reporting. We recommend OHA train providers on data collection and data reporting requirements.

5. Mechanisms to mitigate conflicts of interest in the grant award process appear reasonable. The OAC has been trained by the Oregon Government Ethics Commission and has established a process to exclude individuals from decision-making when a conflict exists. Furthermore, each grant application was scored by two different individuals. We recommend OAC members continue to file annual statement of economic interest forms. We recommend OHA continue to ensure ethics and conflict of interest trainings be provided to OAC members each year.

After multiple meeting cancellations in March, the OAC and OHA made progress in April. A new process has been adopted by the OAC and additional support has been provided by OHA. The OAC has adopted a funding formula in consultation with OHA and OAC subcommittees continue to make grant award decisions. The OAC approved the first BHRN for Harney County on May 18th. These are promising signs that M110 implementation is back on track, despite earlier setbacks and repeated delays. Adopting the recommendations above should mitigate risks that could further delay implementation.

We hope you find value in this interim communication. We appreciate OHA and the OAC's time and collaboration during this audit. We plan on issuing our audit report in the fall, which will provide additional details around these risk areas, a timeline of events, and important background information. If you have any questions, please contact Audit Manager Ian Green at (503) 986-2153.

Sincerely,

Kip Memmott
Director, Audits Division
Oregon Secretary of State

cc: OAC Tri-chairs Ron Williams, LaKeesha Dumas, and Blue Valentine

Appendix D: BHRN Grant Recipients by County

Baker
New Directions NW
Benton
Benton County Health Department
CHANCE
Corvallis Housing First
Family Recovery, Inc.
Family Tree Relief Nursery
Pathfinder Club of Oregon
Clackamas
Bridges to Change
Cascadia Behavioral Healthcare
Harmony Academy Recovery
LifeStance
MetroPlus Association
Morrison Child and Family Services
New Avenues for Youth
Northwest Family Services
Outside In
Parrott Creek Child & Family Services
Phoenix Rising
Recovery Works NW
The 4th Dimension Recovery Center
The Mental Health Association of Oregon
Transcending Hope
Volunteers of America Oregon
Youth ERA
Clatsop
Clatsop Behavioral Healthcare
Clatsop Community Action
Clatsop County Public Health
Helping Hands Re-Entry and Outreach
Iron Tribe Network
Morrison Child and Family Services
Providence Seaside Hosp. Foundation
Columbia
Boulder Care, Inc.
Medicine Wheel Recovery
Youth ERA
Columbia Community Mental Health
Iron Tribe Network
Coos
Adapt
Bay Area First Step Inc.
Coos Health & Wellness
HIV Alliance
Youth ERA
Crook
Rimrock Trails Treatment Services
BestCare Treatment Services, Inc.
Curry
Adapt
Brookings Community Resource Response
Deschutes
BestCare Treatment Services, Inc.
Boulder Care, Inc.
Ideal Option
Healing Reins Therapeutic Riding Center
Rimrock Trails Treatment Services
Deschutes County Health Services
Douglas
Adapt
Boulder Care, Inc.
HIV Alliance
Gilliam
Boulder Care, Inc.
Community Counseling Solutions
Grant
Boulder Care, Inc.
Community Counseling Solutions
Harney
Symmetry Care, Inc.
Hood River
Hood River County Health Dept.
One Community Health
Providence Hood River
Mid-Columbia Center for Living

Jackson
Addiction Recovery Center
ColumbiaCare Services
Community Works
Compass House
Family Nurturing Center
HIV Alliance
Jackson County Health & Human Services
La Clinica
Max's Mission
Oasis Center of Rogue Valley
OnTrack, Inc.
Options for Homeless Residents of Ashland
Options for Southern Oregon, Inc.
Pathfinders of Oregon
Reclaiming Lives
Rogue Community Health
Stabbin' Wagon
Youth ERA
Jefferson
BestCare Treatment Services, Inc.
Josephine
Adapt
Grace Roots
Grants Pass Sobering Center
HIV Alliance
Max's Mission
OnTrack, Inc.
Options for Southern Oregon
The Family Nurturing Center
Klamath
Max's Mission
Klamath Basin Behavioral Health
Lutheran Community Services
Red is the Road to Wellness
The Stronghold
Transformations
Lake
North Lake Health Center, Inc.
Lane
Addiction Counseling and Education Services (Emergence)
Center for Family Development
Centro Latino Americano
Community Outreach Through Radical Empowerment (CORE)
Daisy C.H.A.I.N.
Housing Our Veterans
HIV Alliance
Ideal Option
Laurel Hill Center
Looking Glass Community Services
OSLC Developments, Inc.
Restored Connection Peer Center
Shelter Care
South Lane Mental Health Services, Inc.
TransPonder
Veteran's Legacy
White Bird Clinic
Youth ERA
Lincoln
CHANCE
Coastal Phoenix Rising (NW Coastal Housing)
Community Services Consortium
Confederated Tribes of the Siletz
Faith, Hope and Charity, Inc. (FHC)
Lincoln County Harm Reduction Program
Phoenix Wellness Center LLC
Samaritan Treatment & Recovery
Linn
Addiction Counseling and Education Services (Emergence)
CHANCE
Community Services Consortium
Albany Comprehensive Treatment (CRC Health OR)
Faith, Hope and Charity, Inc. (FHC)
Family Tree Relief Nursery
Samaritan Health Services
Malheur
Eastern Oregon Center for Independent Living
Origins Faith Community Outreach Initiative (OFCOI)
Lifeways
Marion
Bridgeway

HIV Alliance
Ideal Option
Iron Tribe Network
Marion County
Pathfinder Club of Oregon
Morrow
Community Counseling Solutions
Multnomah
The 4th Dimension Recovery Center
Alano Club of Portland
Bridges to Change
Bright Transitions
Cascade Aids Project
Cascadia Behavioral Healthcare, Inc.
Central City Concern Puentes
CODA, Inc.
The Everly Project
Fresh-Out Community Based Re-Entry Program
Going Home II
The Insight Alliance
Iron Tribe Network
Juntos LLC
Just Men In Recovery
Lutheran Community Services
The Marie Equi Institute
The Mental Health & Addiction Association of Oregon
Addiction Counselor Certification Board of Oregon (MHACBO)
The Miracles Club
Morrison Child and Family Services
Northwest Family Services
Northwest Instituto Latino De Adicciones
OHSU, Addiction and Complex Pain
OHSU, Partnership Project
Oregon Change Clinic
Outside In
New Avenues for Youth
Painted Horse Recovery
Pathfinders of Oregon
Phoenix Rising
Portland Street Medicine
Project Patchwork
Project Quest (Quest Center for Integrative Health)
Providence Portland Medical Foundation
Raphael House of Portland
SE Works Inc
Sovalti LLC
WomenFirst Transition & Referral Center
Volunteers of America Oregon
Yasiin's Luv LLC
Polk
Polk County
Youth Era
Sherman
Boulder Care, Inc.
Mid-Columbia Center for Living
Tillamook
Adventist Health Tillamook
CARE
Rinehart Clinic and Pharmacy
Tillamook County Community Health
Tillamook Family Counseling
Tillamook Serenity Club
Umatilla
Eastern Oregon Alcoholism Foundation
Eastern Oregon Center for Independent Living
Community Counseling Solutions
Union
Center for Human Development
Eastern Oregon Center for Independent Living
Wallowa
Boulder Care, Inc.
Wallowa Valley Center for Wellness
Wasco
Bridges to Change
Eastern Oregon Center for Independent Living
Give them WINGS
Mid-Columbia Center for Living
North Central Public Health District
One Community Health
Youth Empowerment Shelter
Washington
Bridges to Change
CODA, Inc.

Forest Grove Foundation
HIV Alliance
Ideal Option
LifeWorks NW
Lutheran Community Services
MetroPlus Association
Miracles Club
Morrison Child and Family Services
NW Instituto Latino
Phoenix Rising Transitions
Sequoia Mental Health
The 4th Dimension Recovery
The Mental Health Association of Oregon
The Recovery Gym (Alano Club)
Virginia Garcia Memorial Health

Washington County Behavioral Health Division
Washington County Public Health
Wheeler
Boulder Care, Inc.
Community Counseling Solutions
Yamhill
Alano Club
Encompass Yamhill Valley
Providence Newberg Medical Center
Provoking Hope
Recovery Works NW
Virginia Garcia Clinic
Yamhill Community Action Partnership
Yamhill County HHS

OFFICE OF THE DIRECTOR
Tina Kotek, Governor

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January 17, 2023

Kip Memmott, Director
Secretary of State, Audits Division
255 Capitol St. NE, Suite 180
Salem, OR 97310

<Sent via email: kip.r.memmott@sos.oregon.gov>

Dear Mr. Memmott:

This letter provides a written response to the Audits Division's final draft audit report titled Too Early to Tell: The Challenging Implementation of Measure 110 has Increased Risks, but the Effectiveness of the Program has Yet To Be Determined.

The Oregon Health Authority (OHA) appreciates the role of the Secretary of State Audits Division in providing oversight of Oregon's State funded programs on behalf of taxpayers and the people we serve. The scope of this audit was focused on efforts made by OHA and the Oversight and Accountability Council (OAC) to implement the state's new Behavioral Health Resource Network (BHRN) program to serve families and individuals affected by substance use disorder. The objective was to examine specific elements of Measure 110 (M110) as required by Senate Bill 755 (SB755) ensured including the effectiveness of governance provided by OHA and the OAC to meet the intent of the ballot measure and associated legislation.

In response to the drug addiction and overdose rates in the state, Oregon voters passed Measure 110, which decriminalized the possession of substances for personal use and instituted a health-based approach to addiction and overdose. SB755 an equitable approach to implementation by mandating creation of an Oversight and Accountability Council (OAC), comprised of community members with lived experience, substance use disorder treatment providers, policy, and subject matter expertise. The OAC has the sole authority to award BHRN funding or amend grant agreements. The OAC, in consultation with OHA, also supervises program implementation.

This legislation created a paradigm shift in decision-making (external partners are decision-makers and OHA is in a supporting role) that required building new relationships and developing trust with community partners and the Council. This paradigm shift, coupled with ambitious implementation timelines and stretched OHA staffing resources due to the pandemic, led to an initial delay in implementation.

To date the Measure 110 program through the direction of the Oversight and Accountability has created 42 BHRN's across all 36 counties in the state through over 230 separate grant agreements. Creating at least one network of low-barrier services in each county at no cost to the individual accessing services. The choice of the council to use

grant agreements as funding vehicles and the flexibility of the cannabis tax dollars allows for these BHRN's to build infrastructure in a way other funding generally restricts.
The council's direction to decentralize power by creating grant agreements with each individual entity, while a heavy lift, was done strategically to ensure that smaller, innovative, harm reduction focused, and culturally and linguistically specific serving organizations were not left out of a process that historically marginalized their voices. The work of systems change is rarely as public as M110 has been, but that is true to the spirit of this paradigm shifting work.

Below is our detailed response to each recommendation in the audit.

RECOMMENDATION 1 Publish a plan by September 2023 for how the M110 program integrates into the overall behavioral health system in Oregon.		
Agree or Disagree with Recommendation	**Target date to complete implementation activities**	**Name and phone number of specific point of contact for implementation**
Agree	September 2023	Bessie Scott

Narrative for Recommendation 1
OHA agrees that the behavioral health system in Oregon needs a comprehensive strategic plan that incorporates Measure 110. As new leaders join the agency, OHA will develop a strategic behavioral health action plan, which the agency will evolve and regularly adjust over time based on community engagement, ongoing data collection and funding available to address program priorities. OHA will issue the first iteration of this strategic priority framework (which will include M110) by September 30, 2023.

RECOMMENDATION 2 Identify and document gaps that prevent detailed metrics from being implemented that would track the overall effectiveness and impact of M110. • Develop and communicate a plan for addressing the gaps to appropriate stakeholders. Emphasis should be placed on developing metrics that allow policy makers and the public to effectively assess the impact and effectiveness of the M110 program.		
Agree or Disagree with Recommendation	**Target date to complete implementation activities**	**Name and phone number of specific point of contact for implementation**
Agree	December 31, 2024	Bessie Scott

Narrative for Recommendation 2
OHA acknowledges that continued data collection is necessary to accurately measure the effectiveness of M110. Since the inception of M110, there have been barriers to adequate data collection due to changes to the behavioral health reporting system (MOTS) and challenges at the Partner level (e.g. experience level, capacity) that have hindered ideal

data collection efforts. In 2023, a state-level health records system, coined Resilience Outcomes Analysis and Data Submission (or ROADS), is expected to replace MOTS and allow all Providers to report client-level data on M110-related services. ROADS will have the capacity to store requirements specific to those outlined in SB755; BHRN Partners will be able to submit the client-level data necessary to evaluate the outcomes of M110. In addition to the creation of ROADS, OHA is nearing completion of a Behavioral Health Data Warehouse (BHDW) that will allow analysts to connect client-level information across reporting systems. This will ultimately create a system that connects information on Class E Violations and dismissals, access to treatment services, demographics, and outcomes at the client-level. Client level data on M110 services will allow OHA analysts to better determine metrics such as rates of screening waivers and subsequent treatment plan initiation and completion across different geographic and demographic categories.

OHA acknowledges that many BHRN Partners are new to health care and reporting systems. To avoid over-burdening the Partners, and in accordance with the suggested removal of unnecessary burdens on behavioral health providers as described in HB5202, OHA and the OAC approved a Phased Data Work Plan for 2022-2023. The Work Plan requires aggregated data submission from all BHRN Partners, regardless of some organizations' capability to submit additional data. This will allow OHA to view trends and outcomes on an aggregate level and allows the BHRNs to submit data requirements at the same frequency.

In addition to the Work Plan, OHA is currently monitoring M110-related data in other statewide reporting systems. This includes drug-related death and hospitalization data from the Center of Health Statistics, Medicaid claims data on SUD diagnoses and treatment services, and poison control data. Because these systems have historical data prior to M110 implementation, they can provide baseline information for evaluating the effect of M110 statewide.

While the ultimate responsibility to ensure this happens falls to the M110 program, the actions needed will require a cross-agency collaboration between the Health Systems Division and Health Policy & Analytics to ensure effective implementation.

RECOMMENDATION 3 Document policies and procedures for the M110 program, including: • Clear expectations, roles, and responsibilities; and, • Trainings for grant applicants and evaluators, grants management, stipends, and conflicts of interest.		
Agree or Disagree with Recommendation	**Target date to complete implementation activities**	**Name and phone number of specific point of contact for implementation**
Agree	December 31, 2024	Jessica Carroll

Narrative for Recommendation 3

a) The M110 program has documented policies and procedures for program interaction with the Oversight and Accountability Council, BHRN Grant

administration processes, chapter 944 rulemaking/changing process in collaboration with the OAC. These policies and procedures include the roles and responsibilities for the involved parties. Currently the policies and procedures are up to date and will continue to be reviewed annually and revised as needed.

b) Trainings:
   - **Grant applicant and evaluator:** Once the OAC determines the next BHRN funding model, The M110 Program will create a webinar training for grant applicants and a training for grant evaluators.
   - **Grant administration:** The M110 program currently utilizes the DAS contract administration training as well as M110 contract administrator orientation focused on all foundational aspects of M110. The program will continue to utilize these avenues of training grant administrators. Once the OAC determines the process for the next funding cycle, OHA will assist the OAC by making recommendations for the next evaluation process. Due to the current grant expirations, this should be completed by December 31, 2024 for the next grant cycle.
   - **Stipends:** Currently, OAC members are trained on claiming stipends on an individual, as needed basis. The M110 program is currently developing a training to be delivered to the entire council once a year. We expect to have this training developed and available for the council to add to their agenda by June 2023. The OAC will then determine if and when to complete the training.
   - **Conflicts of Interest:** The M110 program has and will continue to provide the Oregon Government Ethics Training by the office of the Oregon Government Ethics Commission (OGEC). M110 will also continue to collect conflict of interest declarations from council members in writing and before council votes on funding decisions. OHA does not have the authority to limit the involvement of OAC members based on their declared or perceived conflicts of interest.

RECOMMENDATION 4

OHA should recommend to the OAC to expand collaboration with:

- The Department of Corrections to address substance use disorders of adults in custody;
- Housing stakeholders such as Oregon Housing and Community Services and the Oregon Interagency Council on Homelessness to leverage expertise specifically on the intersection of housing and substance use disorder;
- Opioid Settlement Prevention, Treatment and Recovery

Agree or Disagree with Recommendation	**Target date to complete implementation activities**	**Name and phone number of specific point of contact for implementation**
Agree	March 31, 2023	Jessica Carroll

Narrative for Recommendation 4
OHA will offer contacts within these various organizations to the OAC. If the OAC chooses to collaborate with any of the entities, OHA will offer to further assist in facilitating those discussions.

Thank you for the opportunity to collaborate. We are excited about the value the M110 Program has and will continue to add to the lives of those living in Oregon.

For any questions, please contact:
Bessie Scott - Bessie.M.Scott@oha.oregon.gov
Jessica Carroll - Jessica.A.Carroll@dhsoha.state.or.us
April Gillette - April.S.Gillette@dhsoha.state.or.us

Sincerely,

James M. Schroeder
Interim Director

EC: Kristine Kautz, OHA Deputy Director
Dave Baden, OHA Chief Financial Officer
Dana Hittle, OHA Interim Medicaid Director
Margie Stanton, OHA Health Systems Division Director
Yoni Kahn, OHA Chief of Staff

OREGON SOS
Secretary of State
Shemia Fagan

OREGON AUDITS DIVISION
Audits Director
Kip Memmott

This report is intended to promote the best possible management of public resources.
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