

Members

Robert Harris
Susan Mandiberg
Jennifer Parrish Taylor
Adrian Smith
Jasmine Wright, Nonvoting



Executive Director

Jessica Kampfe

**Oregon Public Defense Commission
Committee on Governance**

Meeting will occur virtually.
Thursday July 18, 2024
9:00 AM – approx. 10:00 AM PST
Via Zoom*

MEETING AGENDA

Approx. Time	Item	Lead(s)
	Welcome	Commissioner Mandiberg
25 min.	Audit Committee Charter, Review and Discussion	Commissioner Harris
25 min.	Executive Director, Evaluation Process	Commissioner Mandiberg
5 min.	Commission Best Practices Key Performance Measure	Eric Deitrick
5 min.	New Business	Commissioner Mandiberg

***To join the Zoom meeting, click this link. <https://zoom.us/j/94769074285>. This meeting is accessible to persons with disabilities or with additional language service needs. Our Zoom virtual meeting platform is also equipped with Closed Captioning capabilities in various languages, which agency staff can assist you with setting up ahead of meetings. Requests for interpreters for the hearing impaired, for other accommodations for persons with disabilities, or for additional interpreter services should be made to opds.state@opds.state.or.us. Please make requests as far in advance as possible, and at least 48 hours in advance of the meeting, to allow us to best meet your needs. Listed times are an estimate, and the Chair may take agenda items out of order and/or adjust times for agenda items as needed.*



OPDC AUDIT COMMITTEE CHARTER

This charter defines the authority, responsibility, and structure of the Audit Committee (Committee), a “Special Committee” of the Oregon Public Defense Commission (OPDC or Commission). The Audit Committee is not a governing body.

A. Purposes of the Audit Committee

“The primary purpose of the Committee is to enhance the quality and independence of the audit function, thereby promoting the integrity of the internal and external audit processes¹.”

B. Authority

“Each agency having an internal audit function shall establish and maintain an audit committee².”

C. Duties

The Committee shall ensure the integrity and effectiveness of the Internal Audit function and provide guidance to enhance the quality of internal and external audits. Minimum committee governance requirements are outlined in Oregon Administrative Rule (OAR) 125-700-0135(5)(a) through (d).

The Committee and its members shall:

1. **Ensure** the independence of the Internal Audit function.
2. Obtain from the Chief Audit Executive annually: a statement of Code of Ethics compliance and disclosures of actual or perceived conflicts of interest.
3. **Obtain from the Chief Audit Executive annually: a report on compliance with auditing Standards and any challenges in meeting these Standards.**
4. Provide input on risk assessments, which forms the basis of the Internal Audit Plan.
5. Provide input **and approval of** the Internal Audit Plan, which **establishes audit priorities, goals and objectives, and a three-year auditing work schedule.**

¹ OAR 125-700-0135(5), second sentence. Note: On January 1, 2025 OPDC will become part of the Executive Branch to which Oregon Administrative Rules apply.

² OAR 125-700-0135(5), first sentence.

6. Notify the Commission Chair in writing if the Chief Audit Executive provides written notification of a scope or resource limitation placed on the Internal Audit function.
7. Advocate for adequate budget resources to provide continuing professional education for Internal Audit staff, periodic external peer reviews as required by professional auditing Standards, and an adequate level of audit staff.
8. Inform the Commission Chair and the Executive Director in writing of any concerns regarding the job description of an internal auditor.
9. Bi-annually review and assess the adequacy of the Audit Committee charter and report any concerns to the Commission.
10. Ensure follow-up of Internal Audit report findings and recommendations to determine whether proper corrective action has been completed or that Management has explicitly assumed the risk of not taking the recommended corrective action.
11. Advise Management, the Chief Audit Executive, and Commission (as appropriate) if, in the judgement of the Committee, Management is assuming an unreasonable level of risk.
12. Identify the level of audit resources that will provide the Committee and the Commission the desired amount and scope of information on which to make reliable risk-based decisions.
13. Periodically assess the effectiveness of management's system for monitoring compliance with laws and regulations and the results of management's investigation and report in writing to the Commission and the Executive Director any instances of noncompliance.
14. Periodically assess the sufficiency of management's financial and programmatic internal control systems, including information technology security and control.
15. Review internal and external audit findings, recommendations, as well as auditees' proposed mitigations and advise the Chief Audit Executive of any concerns.
16. Receive and review the Internal Audit annual report prepared for the Oregon Department of Administrative Services.
17. At least annually report to the Commission on Committee activities.
18. Understand the scope of internal and external auditors' reviews of internal control over financial and performance reporting, and obtain reports on significant findings and recommendations, together with Management's responses.

19. Periodically review significant exam findings by regulatory agencies, as well as audit findings and investigations of misconduct and fraud, to stay current on regulatory trends and relevant auditing matters.
20. Monitor the quality of the Internal Audit function and report to the Commission and Executive Director regarding actions to improve the function.
21. Participate in the performance appraisal of the Chief Audit Executive.
22. Provide input on any Commission request for audits to be performed by the Secretary of State Audits Division or other independent consultants.
23. Ensure periodic external peer reviews of the Internal Audit function (external Quality Assurance Reviews) required by Oregon Administrative Rules and *Standards*. Receive external peer review reports and direct any applicable changes and improvements recommended therein.
24. Review with Management, and the Secretary of State Audit's Division financial auditors, the results of the Audits Division's annual financial statement audit, including any difficulties encountered.
25. Maintain confidentiality of communications and deliberations.
26. Be informed by Agency Management of the appointment or dismissal of the Chief Audit Executive before such actions become effective. Objections, if any, of such actions will be made part of the committee minutes and forwarded to Management and the Commission.
27. Confirm annually, via Committee meeting minutes, that all responsibilities outlined in this charter have been carried out.

D. Composition

The audit Committee is composed of between seven and nine voting Members, a majority of whom shall not be employees of the Agency or Members of the Commission. The Chairperson of the Committee shall not be an employee of the Agency or member of the Commission. The Audit Committee includes the following members:

1. At least one Commission member, as appointed by the Commission Chairperson.
2. The Agency's Executive Director, or designee
3. The Agency's Budget and Finance Manager, or designee
4. Between four and six additional External Members, appointed by the Chairperson of the Committee, in consultation with the Agency Executive Director or designee, the Chief Audit Executive, and the other Committee Members, and ratified by the Commission.
5. The Chief Audit Executive serves as a non-voting member of the committee.

Diversity, Equity, and Inclusion (DEI) shall be considered in the selection of Committee Members. Failure to achieve or maintain a precise composition shall not prohibit the Committee from meeting or conducting activities.

Audit Committee Members must attend, virtually or in person, no fewer than 3 of 4 quarterly Audit Committee meetings in a rolling 12-month period, unless excused by the Committee Chair.

E. Appointment, Terms and Succession.

Candidates for the Committee may be nominated by any member; nominations should reflect the Committee's need for a variety of perspectives. The Chairperson will work with the Agency Executive Director or designee, and the Chief Audit Executive, to initially screen candidates. The credentials of qualified candidates will be presented to the full Committee for deliberation and selection subject to ratification by the Commission.

Agency members and the Commission member serving on the Committee may serve for as long as they hold their positions. External Members are appointed to two-year terms, but may serve consecutive two-year terms with Committee approval, subject to ratification by the Commission. However, the Chairperson will monitor turnover and take steps to bring in new Committee Members at least every four years. Members considering resignation should attempt to notify the Committee sufficiently in advance such that a replacement can be brought on in time for the subsequent quarterly meeting.

External Members who fail to attend more than one quarterly meeting within a rolling 12-month period, unless excused by the Chair, may be removed from membership by a majority of the committee subject to ratification by the Commission.

Any member of the Audit Committee may be removed, with or without cause, by a majority vote of the Audit Committee subject to ratification by the Commission.

The Chair of the Committee will be filled by a current Committee member. Members may volunteer or accept nomination from other members. The Chair's term will begin upon affirmative vote by a majority of members. The term of office for the Chair will be two years, with no term limits.

F. Meetings, Agendas, Minutes

The Audit Committee meets quarterly, with additional meetings held as necessary. Meetings are usually about two hours per session. Because of the amount of material typically covered during meetings, it is important that Members attend regularly, be punctual and come prepared, having reviewed the meeting materials. A quorum is necessary to hold a meeting and conduct business. **A quorum is composed of a majority of the external Committee members.**

Standing agenda items include review and approval of the minutes for the prior meeting and roundtable time that allows Committee Members to bring forward any audit-related issues. In addition, each Committee meeting will include a report on the state of Agency operations and finances from Agency management. The Committee may also invite guests, such as Secretary of State Audit Division managers, other Agency managers, or stakeholders, to present topics that promote Committee effectiveness. The Chief Audit Executive will coordinate development of the

remainder of the agenda by polling Committee Members one-to-two weeks prior to the quarterly meeting and three to five days prior to any supplemental meeting.

At least once a year, time on the agenda will be set aside for the external Audit Committee Members to meet with the Chief Audit Executive in the absence of the Commission member and Agency management. Likewise, during at least one meeting per year, time will be set aside for the Committee to meet in the absence of the Chief Audit Executive. At least once a year, financial and performance audit managers from the Secretary of State's Audit Division will be invited to attend a Committee meeting, during which time shall be set aside for meeting with external Committee Members absent the Commission member, Agency management, and the Chief Audit Executive.

Agency Management will provide support staff to attend Committee meetings and prepare written minutes. The support staff will provide an electronic draft of the minutes to the Chair and CAE for review and revision, as necessary, within seven days following the meeting. The CAE will distribute the meeting agenda and meeting-related material to Committee Members at least five working days before the next scheduled meeting. A master file containing meeting agendas, minutes, and meeting materials shall be maintained by Agency management.

Certain matters reviewed and deliberations by the committee may pertain to confidential information and may be exempted from public records disclosure. Also, certain non-exempt information is treated as confidential by the committee.

G. Conflict(s) of Interest

It is the responsibility of an Audit Committee member to disclose a conflict of interest, whether actual or perceived, to the Committee. If there is any question as to whether Audit Committee member(s) should recuse themselves from a vote, the Committee should vote to determine whether the member should recuse themselves.

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MEMORANDUM

TO: OPDC Governance Subcommittee

FR: Susan Mandiberg, Subcommittee Chair

RE: Considerations for E.D. Review

DT: July 11, 2024

This is a draft for discussion at the Governance Subcommittee July 18 meeting. It addresses the content of an Executive Director evaluation to be completed prior to January 1, 2025. The draft does not address the mechanics of the evaluation (*e.g.* the software to be used, involvement of OPDC HR staff, and mechanisms to ensure confidentiality). The Subcommittee will discuss these mechanics after receiving input from similar commissions in the Executive Branch.

The goal is to have a draft for the Commission to discuss and provide input at the August Commission meeting, with a final action item at the September meeting and a release of the survey shortly thereafter.

I. EXECUTIVE BRANCH GUIDANCE FOR E.D. REVIEW

Although our first E.D. evaluation is slated to occur in 2024 while OPDC is in the Judicial branch, the results will likely be reviewed by those in the Executive branch after the January, 2025 move. Thus, it seems prudent to conduct the evaluation in a manner that produces results understandable by the Executive branch.

The Executive branch has published a guidance document for bi-annual performance reviews of directors of small, independent agencies (“Guidance”) (attached as Appendix A). The Guidance contains a list of categories from which evaluators must be selected, required topics to be covered in the evaluation, and a required rating scale.

The gist of the Guidance is that we are evaluating the E.D., not the agency or Commission. To that end, evaluators should be individuals who have interacted personally with Jessie.

Limiting evaluators to those with personal interactions, however, eliminates other persons who have an interest in OPDC. Such persons undoubtedly have observations about the agency that reflect indirectly on the Executive Director. In addition, these individuals may also have observations about the Commission that the Commission would find helpful. Therefore, for this evaluation, we might go outside the Guidance template to include additional evaluators with separate questions.

II. EVALUATION USING GUIDANCE TEMPLATE

A. Evaluators

The Guidance sets out four categories of required evaluators.

Commission Members. All Commission members need to respond.

Direct Reports and/or Executive [and other important] Team Members.

(This list includes some important team members who are not direct reports or on the executive team.)

1. Deputy Director [Emese Pefecto]
2. General Counsel [Eric Deitrick]
3. Appellate Chief Defender [Ernie Lannet]
4. Juvenile Appellate Chief Defender [Mary Shannon-Storey]
5. Government Relations Manager [Lisa Taylor]
6. Chief financial Officer [Ralph Amador]
7. Trial Support and Development Manager [Shannon Flowers]
8. CAP Manager [Kim Freeman]
9. Chief Deputy Defender, Trial Division [Aaron Jeffers].

Parties of Interest

In this category the Guidance includes parties benefitting in some way from the relationship. As noted above, these should be people who have had direct contact with Jessie. (The existence of a separate “peers” category suggests that government officials are not “parties of interest.”) The Governance suggests 12-15 evaluators in this category.

Following are providers with whom Jessie has had personal contact since becoming Executive Director (other than those on the Commission):

1. Karen Stenard
2. John Lamborn
3. Jack Morris
4. Grant Hartley
5. Shannon Wilson
6. Michele Bartov
7. Alyssa Bartholomew
8. Diana Bettles
9. Carol McCurry
10. Robert Manske
11. Stacey Reding
12. James Comstock (investigator)
13. Steve Wilson (investigator)

Jessie has also had group meetings in Clackamas, Douglas, Klamath, Jackson, Coos, Umatilla, Deschutes, and Malheur counties (which included providers, judges, trial court administrators, and elected district attorneys). If we wanted to invite any of these participants to evaluate, we will need to track down who attended.

Peers

The Guidance suggests 12-15 evaluators from this category. The following are peers with whom Jessie is in frequent contact. We have room to add others. Again, it would be prudent to contact them and ask for a firm commitment before selecting the actual evaluators.

Other agency directors

1. Lisa Sumption E.D. Oregon State Parks (current mentor)
2. Joe O’Leary E.D. Oregon Youth Authority (former mentor)
3. Helen Hierschbiel E.D. Oregon State Bar

Legislators/legislative staff

4. John Borden OPDC Legislative Fiscal Officer
5. Sen Janeen Sollman Co-chair public safety subcommittee ,Ways/Mean
6. Jason Kropf Co-chair Judiciary

Executive branch

7. Constantine Severe Governor’s public safety advisor
8. Zach Gehringer CFO for Department of Administrative Services
9. Lindsey Burrows Former Deputy General Counsel for Governor
10. Christy Monson Oregon Department of Justice
11. Tessa Sugahara Oregon Department of Justice
12. Margaret Wilson Oregon Department of Justice

Judiciary

13. Meagan A. Flynn Chief Justice
14. Nancy Cozine State Court Administrator
15. Jessica Roeser Assistant Deputy State Court Administrator for Operations
16. Phillip Lemman Deputy State Court Administrator
17. Kaiti Ferguson Legislative Affairs

[If we want to include judges and local court administrators who attended the group meetings mentioned above, we will need to track down who participated.]

B. Evaluation Questions and Responses for the Required Categories

The Guidance contains required questions, which are included in **red typeface** in the list below. The Guidance allows additional questions, so we must decide whether to add questions and, if so, what those questions might be (some are suggested below).

The Guidance also contains a required rating scale or textual response area to include *with each individual question*. The rating scale is:

- Unacceptable
- Acceptable
- Effective

Very effective
No opportunity to observe
Open space for textual comments

The Guidance is unclear as to whether each required question must be posed to each evaluator. To make the process as easy as possible for evaluators, I suggest selecting for each category of evaluator only questions that seem most appropriate. Fewer questions make it more likely that people will want to respond to the survey.

Possible questions (reflecting a change in some of the awkward wording used in the Guidance):

Following is a chart suggesting a possible breakdown of questions, with “required” questions in **red typeface**. Each asks the respondent to evaluate Director Kampfe’s performance in each of the following areas:

DRAFT

Questions Using Scale	Commn	Team Membs	Persons of Interest	Peers
Collaborative management of the resources she is entrusted with to achieve the best possible outcomes for Oregonians.	X	X	X	X
Embracing change and providing leadership through change.	X	X	X	X
Creation and fostering of an environment where everyone has access and opportunity to thrive.		X	X	
Owning and taking responsibility for quality of outcomes for Oregonians.			X	X
Operating with urgency, transparency, and accountability.	X	X	X	X
Being honest and transparent regardless of the situation.	X	X	X	X
Regularly sharing what is happening within the agency.	X	X		
Building DEI organizational capacity.		X		
Fostering and promoting an inclusive workplace environment.		X		
Articulation of a compelling vision for Oregon's public defense system	X	X	X	X
Adequate support for or input on strategic planning				
Clarity and frequency of communication.	X	X		
Accessibility.	X	X	X	X
Adequate provision of information.	X	X	X	X
Adequate seeking of information.	X	X		
Responsiveness to issues and suggestions.	X	X	X	X
Facilitation of Commission meetings and subcommittee meetings	X	X		
Education of Commissioners.	X			
Consultation with Commissioners in formulating policies and procedures	X			
Identification of risks to agency success	X	X	X	X
Provision of quality assurance checks on Commission meeting materials.	X	X		

Selection and supervision of consultants.	x	x		
Responsiveness to Commission input.	x			
Effective hiring, supervision, and discipline of direct reports		x		
Provision of training, coaching, and supervision of staff.		x		
<u>Questions Requiring Textual Answer</u>	Commn	Team Membs	Persons of Interest	Peers
What are some leadership strengths you have observed in this individual?	x	x	x	x
What are some leadership opportunities for growth in this individual?	x	x	x	x
Additional comments or feedback.	x	x	x	x

This breakdown results in the following number of questions for each group:

- Commissioners: 21
- Agency team: 23
- Persons of interest: 14
- Peers: 13

Some of the required questions in the Guidance seem directed at evaluating the Commission, not the Executive Director. As we are doing this evaluation in 2024, we can decide whether to ask these questions to any particular group, such as the agency team. We could also put these questions to Jessie:

What has the Commission done well or effectively to support you in your role?

What might the commission have done differently?

What support do you need from the commission moving forward?

What has the board done well or effectively to support the director?

What might the board have done differently?

What support is needed from the board moving forward?

Finally, one required question may need clarification; it may need to be asked differently to the different groups: **This individual promotes a customer service centered organization.** My sense is that each group of evaluators may define the “customer” differently (*e.g.* client, provider, court staff).

A. Evaluation Questions and Responses for the Other Persons with an Interest in OPDC

We may want to get evaluations from persons with an interest in OPDC who have not had direct contact with Jessie. The lack of direct contact would arguably mean that these persons are evaluating the *agency and Commission*, not the E.D. Questions could include many of those listed above, or variations on the same. The issue would be whom to include in the list of potential evaluators.

Based on the discussion at our June 6 subcommittee meeting, this group should reflect a mix of size and location (section of Oregon; rural vs urban) as well as type of provider (nonprofit; consortium; individual) and type of client (adult criminal; juvenile, guardianships; civil commitment). We would need to determine how to deal with overlaps (*e.g.* a non-profit that serves both adult and juvenile clients).

At the June 6 meeting we discussed how to select specific evaluators to fit the slots. Consensus focused on using a process of sortition (either physically putting names in a hat or using computerized sortition). The list of possible choices might first be narrowed contacting parties of interest to ask for volunteers who are willing to commit to completing the survey, first explaining the time commitment and deadlines that would be required.