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Jennifer Nash, Chair
Peter Buckley
Robert Harris
Alton Harvey, Jr.
Tom Lininger
Susan Mandiberg
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Robert Selander
Addie Smith



Nonvoting Member:

Brook Reinhard
Jasmine Wright
Rep. Paul Evans
Sen. Floyd Prozanski

Executive Director:

Jessica Kampfe

Oregon Public Defense Commission

*Meeting will occur virtually.
Wednesday, April 17, 2024
9:00 AM – approx. 1:00 PM PST
Via Zoom**

AGENDA

9:00 – 9:05	Welcome	Chair Nash
9:05 – 9:25	Public Comment	Chair Nash
9:25 – 10:15	Action Item: Approval of Legislative Reports page 3 <ul style="list-style-type: none"> Quality Management Plan FCMS Status Report Executive Branch Transition Modernization & Remediation Plan 	Lisa Taylor Jessica Kampfe
10:15 – 10:30	Briefing: Discussion of Draft Comprehensive Public Defense Report page 95	Lisa Taylor Jessica Kampfe
10:30 – 11:00	Action Item: May Legislative Days Request <ul style="list-style-type: none"> Temporary Hourly Increase Program page 118 Position Requests page 120 	Ralph Amador Jessica Kampfe Eric Deitrick
11:00 – 11:30	Action Item: Policy Updates <ul style="list-style-type: none"> Preauthorized Expenses page 127 Schedule of Guideline Amounts page 129 	Ralph Amador Eric Deitrick
11:30 – 11:45	***Break***	
11:45 – 12:00	Action Item: Elect Vice-Chair page 130	Chair Nash Eric Deitrick
12:00 – 12:30	Action Item: Adoption of Bylaws page 131	Commissioner Mandiberg Eric Deitrick
12:30 – 12:40	Update: Director’s Report	Jessica Kampfe

12:40 – 12:50	Update: Unrepresented Persons	Jessica Kampfe
12:50 – 1:00	Update: Budget	Ralph Amador
1:00	***Adjourn***	

**To join the Zoom meeting, click this link. <https://zoom.us/j/93807960528> 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.*

***The commission welcomes public comment in written form and will review submitted written comment prior to the meeting. There will also be a limited amount of time to provide public comment during the meeting, with each commenter allowed up to three minutes. If you are interested in providing public comment virtually to the ODSC, or if you want to submit written comment, please email opds.info@opds.state.or.us. The deadline to submit interest is 5:00 PM PT April 16, 2024. Please include your full name, organization/entity name, email, and phone number. Public comment may be limited per person if time constraints require.*

Next meeting: May 8, 2024, 9am – 1pm

Meeting dates, times, locations, and agenda items are subject to change by the Commission; future meetings dates are posted at: <https://www.oregon.gov/opdc/commission/Pages/meetings.aspx>



Date: April 17, 2024

To: Jennifer Nash, Chair of PDSC
OPDC Commissioners

Cc: Jessica Kampfe, Executive Director

From: Lisa Taylor, Government Relations Manager

Re: Approval of Legislative Reports for May Legislative Days

Nature of Presentation: Action Item

Background: The Commission has been directed to submit a number of reports to the Legislature. For the May Legislative Days the Commission will be submitting the following reports:

- Executive Transition Report
- Quality Management Plan
- Remediation Plan III
- FCMS Status Report

These reports are due to the Legislative Fiscal Office by April 29th in order to be heard during May Legislative Days May 29-31.

Agency Recommendation: The Agency recommends that the Commission approve the four reports listed above.

Fiscal Impact: None

Agency Proposed Motion: Move to approve the following reports for submission to the legislature:

- Executive Transition Report
- Quality Management Plan
- Remediation Plan III
- FCMS Status Report

Oregon Public Defense Commission

QUALITY MANAGEMENT PLAN

April 10, 2024

NATURE OF THE REPORT

The budget report for HB 5532 (2023) includes the following budget note:

Quality Management Plan: The Public Defense Services Commission is directed to develop a quality management plan for public defense and associated Key Performance Measures and Indicators. The Commission is directed to submit the plan prior to the Legislative Session in 2024. In addition, the Chair and the Executive Director of the Public Defense Service Commission are directed to report on existing Performance Measurements and targets.

During the 2024 Legislative Session the Oregon Public Defense Commission (OPDC) was instructed to submit an updated quality management plan and proposed key performance measures (KPMs) to the Emergency Board in May of 2024.

OPDC submitted a report pursuant to the above budget note in January of 2024. During the 2024 Legislative Session OPDC was directed to report to the Emergency Board in May of 2024 on a quality management plan and proposed key performance measures.

This report outlines the work and the progress to date by the OPDC towards building and implementing a quality management plan. The success of this plan will help the agency work towards a unified goal: to restore credibility in the Commission as an efficient and effective administrator of Oregon's public defense system by stabilizing agency administration to fulfill the agency's mission to ensure constitutionally competent and effective legal representation for persons eligible for a public defender.

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EXECUTIVE SUMMARY

HB 5030 (2021) established the Compliance, Audit and Performance Division (CAP) to help strengthen the Oregon Public Defense Commission's (OPDC) program management, performance, and oversight. The Division provides the following mutually inclusive services: (a) vendor contract compliance; (b) auditing of expenditures related to vendor contracts; (c) internal auditing of agency expenditures; (d) research and analysis; and (e) development and maintenance of performance measures, including key performance measures and supporting key performance indicators.

The OPDC has developed the following quality management plan to implement CAP. This report details the steps that have been taken towards those goals, and the timeline with which OPDC plan to implement each of these goals.

QUALITY MANAGEMENT TO DATE

The CAP division is organized into the following sections: (1) Administration; (2) Trial Criminal Compliance; (3) Juvenile/Parent Child Representation Program (PCRCP) Compliance; (4) Research, and (5) Internal Audit, which reports directly to the Commission. Within these sections are the policy writers in Administration; Trial Resource Counsel within Criminal and Juvenile/PCRCP Compliance; data analysts within Research, and two internal auditors within Internal Audit. Functionally, four program analysts from the Administrative Division of OPDC work with the resource counsel of both Adult and Juvenile/PCRCP to support providers in their contracts. This team of resource counsel and program analysts are called the Trial Support and Development team (TS&D). This team, along with the Data Team (Research) and the Policy Team (Administration) are working to build and carry out the functions of CAP.

In October 2023, the CAP team began to evaluate work currently being done by the resource attorneys and program analysts. CAP then worked with Human Resources (HR) to determine appropriate classification levels and identify gaps within CAP workflow. The primary result of this work was that resource counsel and program analysts were being overburdened by near constant contract management. Contracts were regularly being amended as attorneys up qualified or changed their Maximum Attorney Caseload (MAC). This is compounded by the fact that resource counsel nor the program analysts are trained in procurement. It became clear that both the quality and quantity of work being asked of this team had substantially changed as OPDC moved from a basic pay per case model to a more complex (and more constitutional) system. This work, along with the prioritization of the unrepresented cases, has prevented resource counsel from focusing on the CAP work that they were initially brought on to do.

To remedy this, OPDC has taken the following action:

- Moved the contract amendment process to a quarterly schedule, this minimizes contract changes, lessening the administrative burden while also helping to stabilize budgeting and forecasting.
- Requested procurement staff to break apart the two bodies of work program analysts are currently doing: customer service/program work assisting attorneys and courts with contracts and jurisdictional needs and the contract writing/management that should be done by procurement specialists.

Additionally, resource counsel has begun working on performance standards for non-attorney staff, such as paralegals and case managers.

The policy team has been reviewing and updating existing policies and procedures. While the data team worked on data integrity by creating policies, establishing workflows, creating quality assurance processes, and coordinating with information technology (IT) on database enhancements.

While CAP is still in development, OPDC is excited about the benefits it will bring to the commission. Bringing together data, policy, and subject matter experts has already proven to be successful. For instance, back in December 2023 the CAP manager assigned a member of the data and research team to work with the TS&D team to increase efficiencies on Temporary Hourly Increase Program (THIP) case assignments. THIP cases are unrepresented in-custody cases that OPDC is responsible for assigning counsel.

The CAP data team member began process mapping the current system for how unrepresented cases were being handled. Since THIP's inception in August 2022, court staff, lawyers, and unrepresented persons themselves would call or email OPDC staff seeking appointments for eligible cases. As the unrepresented crisis grew this became a large volume of communication and it was not generating a consistent and repeatable assignment process. The program analyst in charge of THIP was managing vast amounts of communication which took time away from the goal of the program, *to swiftly connect unrepresented persons (on eligible cases) to qualified attorneys who are willing to accept hourly appointments in that jurisdiction.*

The data and research team began developing a Nintex form which can be made available to court staff who can easily provide a few simple details on unrepresented cases (case number, location, custody status). As OPDC already utilizes Nintex forms to take in stakeholder communication (which helps collect data on various other agency initiatives), the agency developed an idea to move away from manual communication which is difficult to collect and organize, towards a mode of communication which is more automatic, repeatable, and observable.

At the same time the external form was being developed, OPDC TS&D staff developed a flier to give to unrepresented clients at their hearings. The flier provides clear guidance on unrepresented client situations and how they should understand the identification of OPDC as the attorney of record on their case. The flier created was translated into Chinese, French, Korean, Russian, Somali, Spanish, and Vietnamese. This will presumably reduce the number of incoming phone calls.

The idea of this form was also shared with outside stakeholders whose feedback and buy in are essential. OPDC discussed the idea in numerous meetings with partners from the State Court Administrator's Office, who offered useful advice and additional data resources essential to the project's success. One of the main concerns shared was that the form could be too burdensome for court staff to use, which has resulted in the highly simplistic nature of specific data points the form will collect. OPDC has also heard concerns that the form merely recreates data that is already available. It is important to note one major problem that OPDC analysts and the Oregon Judicial Department (OJD) court staff alike have run into is the sometimes-questionable validity of the OJD's unrepresented persons dashboard especially as it pertains to custody status, a key piece of information needed for analysts to approve cases. The form can be a way to provide current and accurate custody status on cases where OJD's unrepresented persons dashboard may not be helpful in real time.

OPDC has also engaged partners in local jurisdictions in Douglas, Linn, Coos, and Curry counties to better understand their experiences contacting OPDC, and how to meet their needs moving forward. The input from the trial court administrators, court staff, and partners in the provider community have also guided project direction. The intent is to have OJD staff in these handful of jurisdictions begin (early May) a pilot project to work through technical and policy challenges which will inevitably arise as

learning occurs. OPDC also intends, as it moves closer to rolling out the service statewide, to host informal open house events where stakeholders can ask questions, learn about the new process, and offer feedback to help the service meet their needs. These discussions have helped (and will help) make for better preparation and troubleshooting as this service is rolled out statewide.

The external Nintex form and the internal OPDC workflow it initiates should enable more efficient service delivery to would-be public defense clients by collecting notices of pending THIP case assignments into a visible and churnable queue that agency analysts can use to locate attorneys willing to accept assignments. Additionally, better data, clearer lines of communication, and increased transparency should be realized by all stakeholders.

OPDC looks forward to more collaborative work like this coming from the CAP division. While leadership changes, the unrepresented crisis, and contract management has put CAP in a state of starts and stops, OPDC believes it is on track to implement CAP as intended.

DEVELOPMENT AND MAINTENANCE OF PERFORMANCE MEASURES

OPDC’s objective is to establish a comprehensive plan for developing and maintaining performance measures that ensure all recipients of public defense services in Oregon receive constitutionally competent and effective legal representation. Establishing these measures follows this basic logic:

- What is OPDC measuring? (Standards)
- How are those standards measured? (Metrics)
- What happens when standards are not met? (Training).

Task	Start	End
Objectives		
Qualification and performance standards for all core roles in Oregon’s public defense system for which OPDC provides funding.	02/01/24	8/31/24
Metrics for evaluating the performance of individuals in core roles as well as overall system functioning statewide and in each jurisdiction.	09/01/24	1/1/25
Development of training standards and programs designed to support public defense providers in meeting qualification standards and performance standards applicable to a particular area(s) of practice.	01/01/25	4/30/25
Ongoing, regular review of all qualification and performance standards, metrics systems and structures to identify areas in need of improvement and updates.	Ongoing	
Performance Measures		
<u>Core Staff Qualification and Performance Measures</u>		
Define objectives for performance measures, review existing performance measures, identify best practices, identify key stakeholders.	02/01/24	3/30/24
Hold stakeholder engagement work sessions	04/01/24	4/30/24
Develop standards	04/01/24	4/30/24
Commission approves core staff performance measures		5/8/24
<u>Attorney Qualification and Performance Measures (Criminal, Juvenile, Civil Commitment)</u>		
Define objectives for performance measures, review existing performance measure, identify best practices, identify key stakeholders.	05/01/24	5/31/24
Identify stakeholder groups (Juvenile Del., Juvenile Dep., Criminal, Civ. Com.).	5/1/24	5/31/24
Hold stakeholder engagement work sessions.	06/01/24	7/31/24
Develop standards.	08/01/24	8/31/24
Performance Measure Evaluation Metrics		
Develop metrics for evaluating performance measures.	09/01/24	9/31/24
Develop reporting mechanisms in conjunction with data team, with the goal of incorporating metrics into the Financial Case Management System (FCMS).	09/01/24	12/30/24
Stakeholder feedback and revisions of performance measures and metrics.	10/01/24	10/31/24
Finalize performance measures and metrics.	11/01/24	11/22/24
Commission review of performance measures and metrics.	11/22/24	12/6/24

Commission approves non-training performance measures and metrics.		12/6/24
Implement data collection methods.		1/1/25
Training Standards		
Develop training standards	01/01/25	1/31/25
Hold stakeholder engagement work sessions	02/01/25	3/15/25
Finalize training standards	03/15/25	3/30/25
Commission approves training standards	04/01/25	4/30/25

OBJECTIVES

The following objectives have been identified as goals of the performance measures:

1. Qualification and performance standards for all core roles in Oregon’s public defense system for which OPDC provides funding, including:
 - Attorneys, law graduates, and law students.
 - Paralegals, legal assistants, and office support staff.
 - Investigators and mitigation specialists.
 - Social workers and case managers.
 - Interpreters.
 - Technical support staff.
2. Metrics for evaluating the performance of individuals in these core roles as well as the overall system functioning statewide and in each jurisdiction.
3. Development of training standards and programs to support public defense providers in meeting qualification standards and performance standards applicable to their area(s) of practice.
4. Ongoing, regular review of all qualification and performance standards, metrics systems and structures to identify areas in need of improvement and updates.

QUALIFICATION STANDARDS

CORE STAFF

Current OPDC processes lack a robust set of qualification standards for many critical public defense service roles. For all roles other than Attorney, the sole source of qualification requirements exists within the Pre-Authorized Expense policy, which is not applicable to all public defense services providers. To improve uniformity and transparency, as well as ensure critical providers have the requisite skills and experience, OPDC is prioritizing the development of qualification standards for core staff roles before revising current qualification standards for attorneys.

OPDC has gathered and reviewed industry standards and is launching a series of provider and system-partner workgroups to further review those standards and codify a robust set of qualification standards for the following roles:

- Paralegals and Legal Assistants
- Investigators
- Interpreters

- Case Managers
- Social Workers
- Mitigation Specialists
- Technical Support

Standards and best practices have been created for many of these roles in other states and jurisdictions or by national organizations. For those that do not, OPDC will draw on the experience of paraprofessionals currently operating in Oregon to form standards of practice.

ATTORNEYS

While OPDC does currently maintain qualification standards for the attorney role, the current standards were last revised in 2019, and need further revision to address updated performance standards, better reflect varied case types and relevant skills, and provide additional pathways to certification. OPDC is revising the qualification standards with two overarching goals:

- More appropriately matching standards to the skills required for given case types.
- Increase opportunities for applicants to demonstrate capacity in those skills.

Updated qualification standards would introduce OPDC-certified training courses as an additional pathway to demonstrate competency at lower case type levels. For higher levels of cases, OPDC will introduce periodic recertification requirements – including demonstration of continued practice at that level of case assignment – and additional training courses or work product review to advance to higher level case assignments. Qualification Standards will be broken into four categories to reflect the variety of practice areas funded by OPDC: Criminal, Juvenile, Civil, and Appellate.

Criminal qualifications will cover most of the case types under the current criminal qualification standards, except for punitive contempt, civil commitment, post-conviction relief, and habeas matters, which will be moved to the new civil qualification set. A new criminal qualification tier will be created covering crimes under ORS 137.700 (“Measure 11” crimes) to reflect additional skills and experience needed to manage cases.

Juvenile qualifications will cover two practice areas: delinquency cases including waiver motions and dependency cases including termination of parental rights. Delinquency qualifications will mirror the new criminal qualification set but would require additional skill certifications around adolescent brain development, ongoing representation of post-disposition youth, and relationship management with juvenile system partners. Dependency qualifications will require a more substantial demonstration of skills work in out-of-court negotiations and advocacy.

Civil qualification will add a new certification track encompassing practice areas under the rules of civil procedure to account for their differences from other public defense cases. The civil certification track will include punitive contempt, habeas corpus, post-conviction relief, civil commitment, and adoption defense.

Appellate qualifications will cover direct appeals and post-conviction relief appeals.

PERFORMANCE STANDARDS

OPDC has historically managed attorney performance standards via its contracts with public defense services providers. This has largely been by reference to American Bar Association and Oregon State Bar publications along with distinct contract terms. Over the last two years, the share of attorney work being performed outside of an annual or biannual contract with OPDC (hourly work) has increased, but OPDC has requires hourly attorneys to agree to the same performance standards as contracted attorneys. Moving the performance standards to a formal policy outside of the contract terms will help ensure transparency and universal applicability.

OPDC is working to develop its own performance standards informed by but independent of those published by the Oregon State Bar and American Bar Association. Performance standards not developed by OPDC are limited in their applicability and force. Effective oversight of attorneys can best be managed with internal standards.

OPDC has yet to implement any performance standards for non-attorney roles. OPDC has gathered national standards for most core staff roles and the provider and system partner workgroups developing the qualification standards will also address performance standards.

AUDITS AND QUALITY CONTROL

To implement quality control and expenditure audits, OPDC first must establish performance metrics. Without metrics CAP will not know what to control for or audit. The CAP division is not at this stage yet, but OPDC fully recognizes the importance of both vendor compliance through quality control and expenditure audits of both vendor contracts and agency expenses. Below is a summary of the goals of these areas.

VENDOR CONTRACT COMPLIANCE

OPDC will ensure all vendors follow their contracts by setting up a quality control system that monitors vendor compliance and flags vendors who are out of compliance. Through this quality control system, OPDC can effectively implement vendor contract compliance measures to ensure accountability, transparency, and quality service delivery in line with its mission and objectives.

Once performance standards are in place, CAP will ensure compliance with standards and opportunities for improvement when standards are not met.

AUDITING OF EXPENDITURES

AUDITING OF EXPENDITURES RELATED TO VENDOR CONTRACTS

OPDC will create a system to audit vendor contract expenditures by creating policies and processes to establish a systematic approach for consistent and transparent review of vendor contracts. OPDC will create a risk analysis measure for vendor contracts along with working with budget, program, and compliance staff.

INTERNAL AUDITING OF AGENCY EXPENDITURES

OPDC will create internal auditing of agency expenditures by working with the existing internal auditor and the OPDC audit committee. The audit committee approves the audit plan for the agency. The most recent audit plan was approved at the April 1st meeting. The audit plan encompasses a three-year plan, to be reviewed annually.

RESEARCH AND ANALYSIS

OPDC will become a commission that is led by data informed decision making and has robust quality control and performance metrics. As such, investing in the data and research team is an important part of OPDC's CAP build out. All data leaving the agency or used internally for forecasting, procurement, budgeting, quality control, performance management is obtained through data and research. The data is managed through internal data bases and a client management system and compiled into dashboards for the OPDC's use. As the commission partners with other agencies, like OJD and DAS, it is increasing avenues to use other data to incorporate within OPDC's data. The data team will be reviewing and analyzing caseload reports with OJD data to provide the quality control and quality assurance review of the monthly submitted caseload reports. Ongoing work to further support the data integrity will reflect the correct case types reported. The data and research team is also looking at other areas to use data to inform decisions, provide feedback and research on policy, and process improvements.

In late 2022 and early 2023, OPDC's data and research team revised the data submission process for contractors, significantly improving OPDC's ability to analyze and understand provider work. The team has been working consistently to build the data infrastructure to begin utilizing submitted data and provide more regular and consistent reports on provider work product. That infrastructure has already dramatically reduced personnel time required to analyze the PCRCP client communication KPM. OPDC needs to continue to provide support and training to ensure accuracy of data.

As data collection expands, OPDC's data and research team will expand too. This has already been shown with the data the team was able to put together for the HB 4002 fiscal during the 2024 legislative session. OPDC hopes to replicate that process for future legislation. As the division matures OPDC plans to move further into research and analysis of data rather than just the collection of data.

KEY PERFORMANCE MEASURES AND SUPPORTING KEY PERFORMANCE INDICATORS

Over the last several years OPDC has experienced multiple changes in leadership, this has led to a loss of focus on KPMs. With the passage of SB 337 (2023) and the Legislature's direction to restructure the agency there is an opportunity for developing KPMs that address current issues impacting public defense delivery in Oregon. The development of a new strategic plan will assist in identifying new KPMs.

OPDC has gathered quality indicators from various state and national sources to inform the development of key performance metrics specific to practice in Oregon. As those KPMs are developed, OPDC is identifying data sources from which to analyze those metrics. The OPDC data and research team has been coordinating with OJD to access their data warehouse which already contains a substantial portion of the necessary datapoints for KPM analysis. OPDC is also identifying datapoints that will be gathered from providers directly and incorporating those datapoints into the FCMS.

Oregon Public Defense Commission

FINANCIAL CASE MANAGEMENT SYSTEM STATUS REPORT

April 8, 2024

NATURE OF THE REPORT

The budget report for SB 5506 (2023), the omnibus budget measure, included the following budget note for the Public Defense Commission (OPDC):

The Public Defense Services Commission is directed to report to the Joint Legislative Committee on Information Management and Technology and the Joint Committee on Ways and Means prior to the 2024 legislative session on the status of the Financial/Case Management System (F/CMS) information technology project. The Commission's reports to the Legislature shall include: (a) updates on project scope, schedule, budget, and total cost of ownership; (b) current project risks, likely impacts, and mitigation strategies; (c) independent quality assurance reporting; (d) stakeholder/provider involvement in the planning and governance of the project; and (e) other information that helps inform the Legislature on the status of the project or issues that have arisen as the result of the project. The Commission is to follow the Joint Stage Gate, or a similar disciplined process related to information technology projects, including development of key artifacts and independent quality assurance oversight.

OPDC submitted a report pursuant to the above budget note in January of 2024. During the 2024 Legislative Session OPDC was directed to report to the Emergency Board in May of 2024 on the status of the Financial Case Management System (FCMS).

The following report outlines the work and the progress to date by the Oregon Public Defense Commission (OPDC) on this project. The success of this project will help the agency work towards a unified goal: to restore credibility in the Commission as an efficient and effective administrator of Oregon's public defense system by stabilizing agency administration to fulfill the agency's mission to ensure constitutionally competent and effective legal representation for persons eligible for a public defender.

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EXECUTIVE SUMMARY

Objective/Business Case: OPDC seeks to replace their antiquated in-house built and supported financial and case management tools with a Commercial Off-the-Shelf (COTS) integrated technical solution to automate data entry, provide consistent data collection, and be able to take advantage of vendor sponsored enhancements. The business case (see appendix) provides the needed details of FCMS and its historical context for the project.

Current State: The agency restarted the Financial/Case Management System (FCMS) project after a brief hold November 2023-January 2024. In February 2024, the agency worked with the Department of Administrative Services Enterprise Information Services (DAS EIS) on a strategy to secure experienced contracted resources for the project and solidify a plan to move the project forward with minimal delay.

Deputy Director Emese Perfecto has been named Executive Sponsor and Ernest Lannet has accepted the role of FCMS Business Owner and will sit on our Governance Steering Committee.

OPDC is aligning on a critical project blocker around securing a procurement resource. The agency has aligned with DAS to explore a procurement resource who is familiar with the state. OPDS has also found a back-up option to reach out to Covendis for a procurement resource are unable to be contracted through the state. This delays the project, and the project timeline has been updated to push out procurement closer to Fall/Winter 2024.

Many resources are still needed to be hired for the FCMS project to be successful. The hiring timeframe also delays the project timeline out closer to end of year 2024.

Beyond those project blocks, significant advancements in the development of FCMS has been made. This report underscores OPDC's dedicated efforts and the considerable strides made since the project's reinitiating, highlighting the commission's unwavering commitment to enhancing transparency and efficiency.

Alongside DAS, OPDC has reviewed the resource hiring plan and timeline through procurement activities. Three tracks of work have been clearly designated: Finance, Time Tracking and Case Management for FCMS. A robust list of stakeholders and an updated resource hiring plan has also been added to the Project Charter.

Collaboration with subject matter experts in legal and financial domains has been instrumental in refining the FCMS's business requirements. This rigorous review process ensures that FCMS aligns with the highest standards of legal compliance and financial integrity. The involvement of these experts not only strengthens the system's foundation but also reaffirms OPDC's dedication to implementing a robust and effective FCMS that meets stakeholders' diverse needs.

The Project Charter for FCMS has undergone a comprehensive update to ensure its alignment with the Department of Administrative Services (DAS) standards and objectives, especially those related to governance oversight. This revised charter is currently under the careful scrutiny of the governance committee. Through this meticulous review process, the governance committee is setting a strong foundation for the FCMS.

Project management resources were secured and started at OPDC on February 12, 2024. They have designated one project manager to FCMS who is currently working on preparing documents to submit to EIS Stage Gate: Project Charter, Business Case (see appendix) and other documents that DAS will require. The project has made significant headway with starting RFP requirement review sessions within Finance, Legal, Data and IT stakeholders. The project now has an identifiable Stakeholder Committee and a reformed Governance Committee

to help the project move forward quickly. The communication of F/CMS project objectives has largely been kickstarted in February and March and weekly Project Status Reports are being sent out as well as Bi-Weekly Governance Team Meetings and Bi-Weekly Stakeholder meetings.

The project has encountered a delay in the ability of hiring a much-needed procurement resource. This role is currently not identified in the agency and will need to be staffed as soon as possible to be in place to handle procurement end to end for F/CMS.

Work is being done to secure additional resources in tech and business analysts to help with the concerted effort in the implementation phase should F/CMS pass EIS Stage Gate 1 and move towards more Procurement activities, Business Process Mapping, and Technical Solutions Architecture work alongside Data Migration analysis and work.

The project schedule is being built and solidified with over 400 tasks identified as it details out work in the initiation and planning phase. An estimated project schedule has been drafted subject to revision when the vendor is selected. Due to EIS requirements of project schedules an interim schedule is being utilized.

The Commission is committed to the success of this project. The OPDC cannot continue to serve all the legislative mandates and requirements in SB 337 (2023), SB 5532 (2023), and SB 5506 (2023) without updating its data and information systems. There is no path to success utilizing the many volatile legacy systems, continuing to patch and rebuild those systems as they limp along. There is a limited future as software companies discontinue support for these outdated systems.

The commission is actively partnering with the Office of the State Chief Information Officer for guidance and assistance. With their assistance, OPDC has hired a chief information officer David Martin in March 2024 and has brought on contract staff for project management work and is currently looking to staff business analysis resources. Work is underway as stated above to revise project schedules to facilitate a success, this was one of the first objective of the contract IT project manager when hired.

The commission acknowledges that there is a new momentum in place with F/CMS and current work being done is thorough and at a new level of detail and expertise that is being used to ensure FCMS passes Stage Gate and an RFP is successfully sent out with Procurement in place to move this project forward accurately. FCMS' executive team and governance team takes their role as public servants and stewards of public funds seriously and is committed to building a team that brings forward the highest levels of technical knowledge and support to this project. The team understands gravity of the moment and the importance of making this project the commission's number one priority.

SCOPE, SCHEDULE, BUDGET & TOTAL COST OF OWNERSHIP

The purpose of this project is to replace PDSC's end of life, in-house built database structure with a cloud hosted Commercial-off-the-shelf (COTS) financial and case management system. Oregon public defense has been lacking a solution that not only provides timely payments to the contract/provider community and has the capability to capture comprehensive data on public defense.

The PDSC has adopted the following guiding principles related to the development and implementation of the F/CMS solution. The guiding principles are:

1. Be guided by mission and vision, to ensure that eligible individuals have timely access to legal services, consistent with Oregon and national standards of justice and to maintain a sustainable statewide public defense system that provides quality representation to eligible clients in trial and appellate court proceedings.
2. Subject to #1 above, system business processes will be the first consideration. Customization will only occur if required by the law.
3. Organizational change management (OCM) is critical to success and requires on-going investment.
4. Rapidly providing quality products to internal and external customers is critical to the success of the solution.
5. Timely unified decisions need to be made to implement a uniform solution.
6. It is imperative to learn and understand the product prior to configuration.
7. Configuration team membership requires broad representation, and a substantial amount of concentrated time must be allocated by participants.
8. The perspective for implementation should be from the "outside in" to streamline customer interactions.
9. The vendor has significant expertise, and their advice should be carefully considered.
10. The system is a business reengineering tool that supports the PDSC mission, vision, and infrastructure needs; therefore, the program falls within the overall PDSC governance structure for assuring congruence of PDSC policy and practice.
11. Communication with the vendor should be in a clear, consistent, and uniform approach and only as provided in the contract provisions.

With the implementation of the F/CMS, PDSC will meet Oregon public defense needs with the following system capabilities:

- Financial Management
 - Attorney/Provider reimbursement claims
 - Payment schedule
 - Audit functions
 - Payment tracking
 - Paperless system
- Case Management
 - Comprehensive Data Collection
 - Case milestones (pretrial information, conditions of release, investigation practices, expert consultation, motions filed, and plea offers)
 - Basic event data
 - Case information (basic client demographics, initial charge(s), pretrial release/detention decisions, motions filed, expert consults, pleas offered, disposition, and sentencing).
 - Legal work performed outside of contract.

- Attorney qualifications
 - Attorney caseload
 - Attorney contract oversight
 - Timekeeping
- Reporting
 - System canned reports
 - System ad hoc reports
 - Direct database access via PowerBI (other) platforms for custom reporting

The above system attributes describe at a high-level the functionality that internal and external users can expect to see with the new system. Although this list is not exhaustive, it captures critical functions that would support PDSC for the first time with modern operational capabilities. The F/CMS would also afford the agency the ability to produce detailed and structured reports as requested by the legislature and stakeholders. PDSC desires a transparent and effective public defense model and believes that starts with modernizing operational technologies.

PROJECT SCOPE

The project’s scope serves as baseline definition for the F/CMS project. All project work should occur within the framework of the project scope and directly support the project outcomes. The governance team is currently reviewing the scope in the updated Project Charter. We have identified the scope to include the whole solution for the FCMS system including case management. The scope in conjunction with the business case (see appendix) defines the following:

- Scope description
- High-level project requirements
- Project strategy
- Project constraints
- Project assumptions

Any changes to Scope must be approved by the project governance committee. The projected completion date for this project is July 1, 2025. See Appendix FCMS Project Scope.

IN SCOPE

- Procure a new integrated financial and case management system (FCMS).
- Procure associated hardware to support FCMS.
- System able to ingest large amounts of external data.
- Data share agreement with Oregon Judicial Department (OJD).
- Data share with Department of Administrative Services (DAS) R*STARS system for vendor payments.
- Change management (i.e., communication; prepare for, manage, reinforce change).
- Project management for FCMS.
- FCMS business processes documentation (i.e., “as is”; “to be”).
- Data migration for data elements in the FCMS (OPDC/Provider as applicable).
- Document, audio, and video management and storage for case discovery / court exhibits (i.e., short term / long term storage dynamics to be determined through course of project).
- End user training of the FCMS for OPDC and Providers.
- External quality assurance engagement.
- Robust internal / external project communication.
- Regular project reports to Legislative Fiscal Office LFO.

- Maintain current technical tools (i.e., databases; spreadsheets) with limited or no changes until FCMS becomes operational.
- Configuration management process.
- Engaged governance structure (i.e., steering committee; executive sponsors).
- FCMS will be accessible to authorized internal and external users.
- FCMS stakeholder engagement.
- Internal email / instant messages for communications within FCMS.
- Integration with Microsoft communication systems and FCMS.
- Review all duplicated forms and ancillary systems for in scope work and or deprecation for future phases.
- Payments to vendors. (new)
- Definition of case management standards.
- Development and negotiation of new contracts with providers.
- Management of the legal contractual dynamic between OPDC and vendors.
- System determination of attorney qualifications on case assignments.
- FCMS system will not analyze outcomes of collected data.
- Non-FCMS related stakeholder engagement.
- Identification of contract rates for providers.
- A completely automated vendor payment system.

OUT OF SCOPE

- Ability to electronically file circuit or appellate court documents directly from FCMS.
- Ability for OPDC to maintain a vendor or migrate to an employment relationship when there is a provision of indigent defense.
- From an agency management perspective: System generated budget projections, payroll management, supply procurement, personnel management.
- Preparation and/or presentation of legislative concepts not related to FCMS.
- Policy related provisions of public defense services.
- Client satisfaction of legal representation.
- FCMS system based on artificial intelligence (e.g., FCMS system will not be able to determine whether a person received adequate representation).
- New hardware / software not directly related to new FCMS.
- Other projects not directly related to the procurement, configuration, and deployment of a new FCMS system.

BUDGET

Through the fiscal month ending November 2023, the F/CMS operating budget remains largely within in its lawful appropriation. There are significant savings in personal services as three of the five positions are now vacant. The only project associated expenditures are for the quality assurance vendor and for the consultant that was hired to help the project team develop a prospective RFP.

FCMS Operating Budget				
	Budget	Year 1 Actuals	Year 2 Actuals	Variance
Personal Services Total	1,246,630	252,313	-	-994,317
Administrative Services and Supplies Total	151,940	5,757	-	-146,183
Project Cost 23-25 Total	5,933,925	65,295	-	5,868,630

Contingency 10% of cost	686,730	-	-	-686,730
Project Total Costs	8,019,225	323,366	0	7,695,859

Total FCMS Costs as of 3/21/2024	
Row Labels	Sum of Sfms Trans Amt
2023	
ASD - FINANCIAL/CASE MANAGEMENT SYSTEM	
PERSONAL SERVICES	\$ 357,355.68
SERVICES AND SUPPLIES	\$ 65,667.40
2025	
ASD - FINANCIAL/CASE MANAGEMENT SYSTEM	
PERSONAL SERVICES	\$ 312,686.67
SERVICES AND SUPPLIES	\$ 89,048.56
Grand Total	\$ 824,758.31

Updated financials as of 3/21/2024

F/CMS PROPOSED TOTAL COST OF OWNERSHIP

Item	July 2023	July 2024	Biennium 2023/25	July 2025	July 2026	Biennium 2025/27	TOTAL
	June 2024	June 2025		June 2026	June 2027		
Core Case Management System (CMS) – Vendor	\$504,400	\$504,400	\$1,008,800	\$504,000	\$504,000	\$1,008,000	\$2,016,800
Implementation	\$75,000	\$75,000	\$150,000	\$20,000	\$10,000	\$30,000	\$180,000
Data Migration	\$50,000	\$50,000	\$100,000	\$10,000	\$10,000	\$20,000	\$120,000
Hosting & Support	\$50,000	\$50,000	\$100,000	\$50,000	\$50,000	\$100,000	\$200,000
Project Management Vendor	\$151,938	\$151,938	\$303,876	\$151,938	\$151,938	\$303,876	\$607,752
System Architecture	\$321,550	\$321,550	\$643,100	-	-	\$-	\$643,100

Report Management Configuration/Customization – Vendor RSTARS	\$155,325	\$155,325	\$310,650	-	-	\$-	\$310,650
Network Infrastructure	\$68,150	\$68,150	\$136,300	-	-	\$-	\$136,300
Possible Integration Work	\$272,500	\$272,500	\$545,000	\$40,000	\$15,000	\$55,000	\$600,000
OPDS Hardware (New Requirements/Lifecycle)	\$50,000	\$50,000	\$100,000	\$50,000	\$50,000	\$100,000	\$200,000
QA Vendor	\$375,000	\$375,000	\$750,000	\$50,000	\$25,000	\$75,000	\$825,000
Technical Team – OPDS (2-OPA3 / 1-ITS 4 / 2 OPA 2)	\$699,285	\$699,285	\$1,398,570	\$699,285	\$699,285	\$1,398,570	\$2,797,140
Training – Vendor/OPDS	\$200,000	\$200,000	\$400,000	\$30,000	\$10,000	\$40,000	\$440,000
Travel – Vendor/OPDS	\$50,000	\$50,000	\$100,000	\$5,000	\$5,000	\$10,000	\$110,000
Overhead - \$30k/year	\$30,000	\$30,000	\$60,000	\$30,000	\$30,000	\$60,000	\$120,000
Change Management Vendor (Project and Organization)	\$200,000	\$200,000	\$400,000	\$200,000	\$200,000	\$400,000	\$800,000
Total All Funds	\$3,253,148	\$3,253,148	\$6,506,296	\$1,840,223	\$1,760,223	\$3,600,446	\$10,106,742
Contingency – 10% of project costs			\$650,630			\$360,045	\$1,010,674
Total Funds with Contingency			\$7,156,926			\$3,960,491	\$11,117,416

The proposed total cost of ownership has not significantly changed from the initial estimates of the submitted business case. Since neither the RFI nor the RFP has been solicited, it remains premature to change any of the initial estimates. Beyond the final completion date of the project and the warranty period, it is reasonable to assume that there will be ongoing costs associated with the solution such as periodic maintenance and operation costs. The PDSC should assume that there will be regular system updates and future upgrades needed to keep the system compliant, secure, and versatile. The PDSC can also assume that there will be a permanent need for a system architect, business analysts, and other technical staff to maintain the system and provide support to all users internally and externally. Once a vendor is selected, the PDSC will be able to provide an updated total cost of ownership.

INDEPENDENT QUALITY ASSURANCE REPORTING

OPDC has secured a contract with Hittner and Associates (Hittner) to perform the role of independent quality assurance. The full periodic quality status report (PQSR) for February 2024 is attached in this document's appendix (See Hittner & Associates Six Week Quality Status Report (February 2024)).

As of February 2024, Hittner & Associates rates the overall project health as having a Medium-High Risk profile but trending in a more positive direction due to filling the agency's Chief Information Officer (CIO) position as well as hiring two project managers. Procurement activities were paused in December as the Project looked to reset due to questions on the quality of the draft RFP that was created to procure an FCMS solution and vendor, as well as significant changes to Project team makeup. Procurement activities have restarted as of the end of February.

RISKS

The following are risks identified and rated by Hittner.

Risk Description	Risk Rating
<ul style="list-style-type: none"> Capability of OPDC to manage a project of this size and complexity. 	Medium
<ul style="list-style-type: none"> Funding cut or severe funding reduction during project implementation results in incomplete project. 	High
<ul style="list-style-type: none"> OPDC divisions are unable to participate as Subject Matter Experts (SMEs) in business process standardization due to budget reductions. 	Med
<ul style="list-style-type: none"> Procurement is delayed. 	High
<ul style="list-style-type: none"> Lack of clear internal vision creates competing priorities. 	Med
<ul style="list-style-type: none"> Unclear internal roles and responsibilities delay project activities. 	Med
<ul style="list-style-type: none"> Lack of communication between OPDC, internal stakeholders, project team, and external project stakeholders, leads to diversions from original goals and outcomes of the project. 	Med
<ul style="list-style-type: none"> Vendor lacks clear understanding of project goals and objectives even with clear requirements. 	Med
<ul style="list-style-type: none"> Decisions are not made in time to keep pace with project activities. 	Med
<ul style="list-style-type: none"> Legacy technology failure requires a shift in priorities. 	High

ASSUMPTIONS

All stakeholders must be mindful of the assumptions identified for the FCMS Project as they introduce some level of risk to the project until they are confirmed to be true. While the project is in a planning cycle, every effort must be made to identify and mitigate any risks associated with these assumptions:

- FCMS is the official system for OPDC staff and contracted providers.
- Sufficient staff from OPDC, OJD, and the selected vendor are available to fully support the FCMS project.
- Decisions are made in a timely manner by the Executive Leadership Team.
- Project Team has the authority to approve deliverables for the project.
- Technology complies with information security standards adopted by OPDC and OJD and DAS
- Operational Leadership Team will assist in review of formal project documentation.
- OPDC, OJD, and the selected vendor assist in coordination of interface testing efforts with stakeholders.
- OPDC, OJD, and Steering Committee participate in FCMS User Acceptance Testing.
- OPDC team members respond promptly to FCMS correspondence requests; participate in FCMS training; and actively engage in Go-Live activities.
- Steering Committee respond promptly to FCMS correspondence requests; participate in FCMS training; and engage in Go-Live activities.
- Oregon Legislature funds the project.
- External providers must use the FCMS if possible.

CONSTRAINTS

It is imperative that considerations be made for the identified constraints of the FCMS Project throughout the project's lifecycle. Stakeholders must remain mindful of these constraints to prevent any adverse impacts to the project's schedule, cost, or scope. The following constraints have been identified:

- Current technical tools must be maintained until a system is in place for financial management, contract administration, and case data tracking.
- Staffing availability at both OPDC and OJD.
- Hybrid Work Approach – Project must work with various stakeholders across multiple Hybrid Schedules – In Person, and remote utilizing MS Teams, Hood Conference Room at OPDC and limited meeting space in person.

EXTERNAL DEPENDENCIES

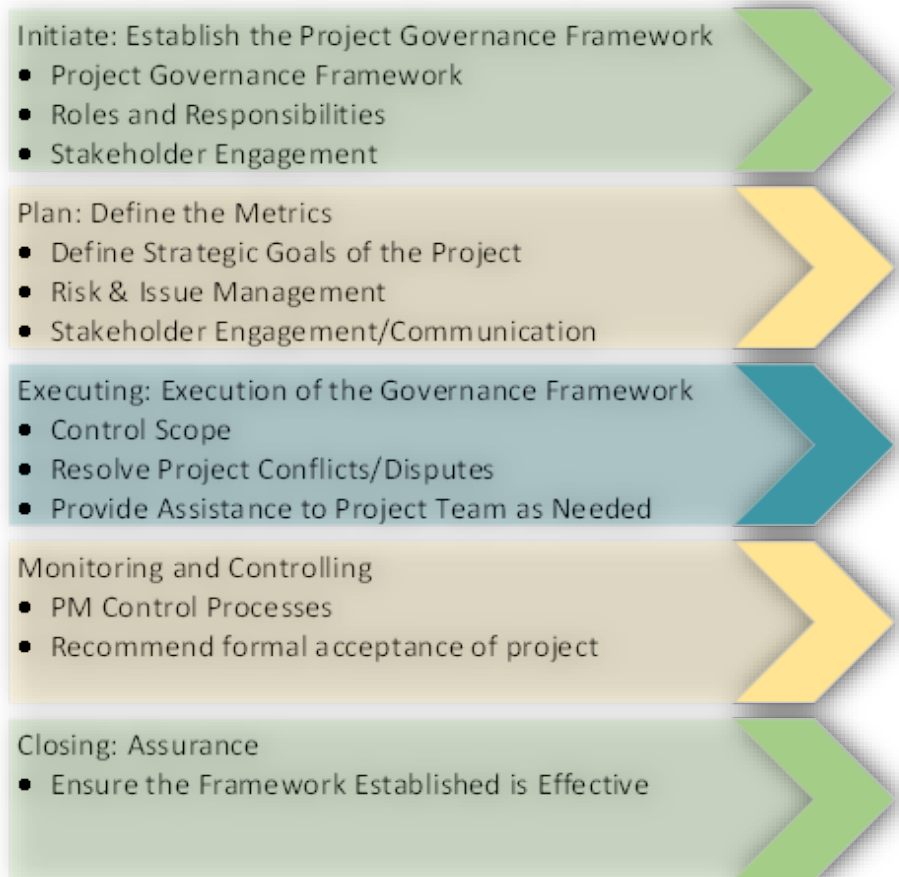
Project Dependencies are as follows:

- Contract continuation with Oregon Judicial Department for IT and Project Support.
- Legislative funding support for project implementation.
- Planned for Release date in December 2024.
- Will utilize DAS IT EIS resources, and DOJ Procurement Resources.

GOVERNANCE AND STAKEHOLDERS

The primary function of the project Governance Steering Committee is to provide senior level decision-making authority within the governance structure. Those in this role are leaders and top managers from within OPDC and contracted public defense providers. The responsibility of the steering committee will primarily be focused upon reviewing and monitoring the strategic direction of the FCMS project and to support the project team in implementing the project lifecycle throughout the stage-gate process.

The Governance Steering Committee provides a stabilizing influence so organizational concepts and directions are established and maintained with a visionary view aligned with the OPDC mission. The Governance Steering Committee provides insight on long-term strategies in support of legislative mandates. Members of the Steering Committee ensure business objectives are being adequately addressed and the project remains under control. In practice these responsibilities are carried out by performing the functions shown in the accompanying chart.



OPDC EXECUTIVE SPONSORS

The Executive Sponsors are responsible for ensuring that the stakeholders as defined by the 6th Amendment Center (6AC) study understand the value and importance of the FCMS project and, ultimately, for realizing the benefits predicted for the project. In practice these responsibilities are carried out by performing the following functions:

- Be champion leaders of the project.
- Have accountability for the project and ongoing accountability for the outcomes.
- Advocate the project internally and externally.
- Obtain funding for the project.
- Accept responsibility for addressing problems escalated from the project Director/Manager/Team.
- Approve documents including the Business Case (see appendix) and Program Charter and other project management related documentation.
- Facilitate and support policy and funding recommendations.
- Provide overview and direction for the project.
- Resolve issues identified by the project, when requested.

- Monitor the project budget.
- Monitor project risks.
- Ensure deliberations of the project are adequately recorded and available to the appropriate parties.

The charter of the Executive Sponsors, Governance Committee, Internal and External Stakeholders is provided in appendix (See FCMS Project Charter). The charter describes the role, membership, responsibilities, and operations of the Executive Sponsors.

Name	Job Title	Functional Area	Project Role
Ralph Amador	OPDC Chief Financial Officer, CFO	OPDC	Sponsor
Emese Perfecto	Deputy Director	OPDC	Sponsor
David Martin	OPDC Chief Info Officer	CIO	Governance Committee/Steering Committee
Eric Deitrick	OPDC General Counsel	Attorney	Governance Committee/Steering Committee
Jessica Kampfe	Executive Director	OPDC	Governance Committee/Steering Committee
Kali Montague	Chief Deputy Defender-Appellate	Appellate Division	Governance Committee/Steering Committee

Internal Stakeholder	Role / Position	Functional Area	Notes	SME Manager
Annie Borton	Resource Counsel Juvenile DGC	Juvenile Resource Counsel	SME	Shannon Flowers
D.Aaron Jeffers	Chief Deputy Defender - Trial	Trial Division	SME	Emese Perfecto
BJ McCartney	Program Analyst	Provider Reimbursement	SME Provider Reimbursement	Shannon Flowers
Jordan Hubert	Criminal Resource Counsel	Criminal Resource Counsel	SME	Shannon Flowers
Karla Bethell	Accounts Payable Manager	Accounts Payable	SME	Ralph Amador
Jenny Carson Phillips	Accounts Receivable	Accounts Receivable	SME	Ralph Amador
Megan Doak	Contract Analyst	Contract Analyst - Trial Div	SME	Shannon Flowers
Austin Frenchmoses	Network / Dev Ops	IT Network	SME Network & Dev Ops	David Martin

Maddy Davis	Research Analyst	Reporting & Data	SME Reporting / Data	Kim Freeman CAP Services Mgr
Kim Freeman	CAP Services Mgr	CAP Services Mgr Data	SME Data	Emese Perfecto
Lisa Taylor	OPDC Government Relations Manager	Reporting	SME Gov Relations Mgr	Jessica Kampfe
A. Reed Buterbaugh	Agency Communications Officer	Communications	SME communications Public Defense	Lisa Taylor Gov Relations Mgr
External Stakeholder	Job Title	Function		
Ron Hittner	IQMS Manager	Reporting / External Oversight of Quality		
Laura Medcalf	DAS EIS Portfolio Manager	Dept of Admin Services & Stage Gate - Review Oversight Level Maturity & Complexity		
Ben Manion	DAS Analyst	Dept of Admin Services Analyst - Review Charter & Business Case		
John McKormick	Manager-DOJ	DOJ's Business Transactions Sections, who are experts in IT contracts, procurement		

STAKEHOLDER INTEREST GROUPS

Stakeholder Interest Groups will be formed and utilized to provide internal and external awareness of Oregon public defense needs and standards and assist with system requirements. Members of this group are non-voting but represented by the project Steering Committee.

EXTERNAL INTERFACE

OPDC maintains a close working relationship with contracted public defense providers throughout the state. In addition to working with providers the agency directly reports to several committees within the Oregon Legislature. Although recipients of public defense services are a high priority to the agency, they are not direct stakeholders for the purposes of the FCMS project. Public defense providers will be direct recipients of the FCMS, equipping them with modern technological tools which will support their practice and services provided.

The FCMS project will also incorporate external support from a contracted quality assurance provider and a system vendor. These external interfaces will support the project to ensure that a quality product is implemented and meets the requirements as defined in the project scope documentation, and requirements traceability matrix. It is expected that the system vendor will supply their own project manager that will assist with product implementation.

INTERNAL STRUCTURE

Project Management (PM) is a new concept and function within OPDC. The agency is learning at a quick pace the relevancy and importance of structured processes for successful project implementation. Since OPDC's utilization of PM principles regarding organizational advancement is in its infancy, the structure of the project organization is less conventional than desired. The project team will direct all project activities and decisions to

the Governance Committee for final approvals, the Steering Committee for guidance and working knowledge, the QA vendor to support risk analysis, and the System vendor to assist with the implementation of the final product.

The FCMS Project will utilize two main internal structures to support the implementation of the project, Project Management, and a Project Team. Below are activities that will be performed by each structure throughout the duration of the project.

The FCMS Project Management Roles and Responsibilities

- Planning and Defining Scope
- Activity Planning and Sequencing
- Planning Resources
- Developing Schedules
- Monitoring/Risk Analysis
- Time Estimation
- Cost Estimation
- Developing a Budget
- Documentation/Reporting
- Working with users to establish and meet business needs.
- Documenting the process

The FCMS Project Team Roles and Responsibilities

- Contributing to overall project objectives
- Completing individual deliverables
- Providing expertise and knowledge

ROLES AND RESPONSIBILITIES

The FCMS project will utilize Oregon’s Department of Administrative Services (DAS) Enterprise Information Services (EIS) Stage Gate Process. This process is broken into four (4) stages (*Figure 3. EIS Stage Gate Oversight Model*) which is built from the Project Management Body of Knowledge (PMBOK) methodology.

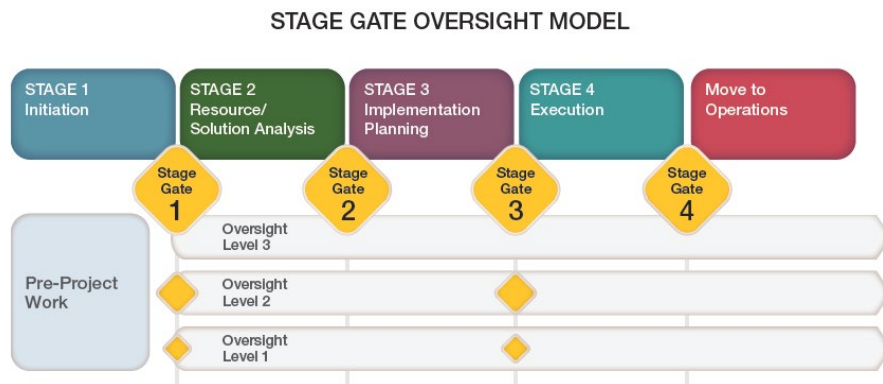


Figure 3. EIS Stage Gate Oversight Model

To implement the FCMS project there are many bodies of work that must be completed requiring multiple internal and external resources. The following matrix expresses the exact nature of roles and responsibilities for internal and external resources on this project.

	Project Management	Project Team	Quality Assurance	System Vendor
Initiation				
Business Case	X			
Initial Complexity Assessment	X			
Charter	X			
RFP Documents	X*	X	X*	
Resource & Solution Analysis & Planning				
Project Management Plan	X			
RFP/Contractor SOW (Project Management, Business Analyst, Independent Quality Assurance)	X			
Market Research	X			
Fit Gap Analysis	X		X*	
Solution Analysis	X			
Project Risk and Issue Log	X			
Stakeholder Registry	X			
RACI	X			
Scope	X	X		
Schedule	X			
Budget	X	X		
System Security Plan	X			
Cloud Workbook	X			
Requirements	X*	X		
Organizational Change Management Plan	X			
Project Status Reports	X			
Independent QA Deliverables			X	
Implementation Planning				
RFP/Contractor SOW (software, hardware, development, configuration)	X			
Baseline Project Management Plan	X			X
Baseline Scope	X			X
Baseline Schedule	X			X
Benefits Management Plan	X			X

Requirements Traceability Matrix	X	X*		X*
Cloud Workbook	X			X
LFO Readiness Assessment	X			X
Execution & Move to Operations				
Executed Contracts & Amendments	X		X*	
Test Plan	X		X*	X
System Security Plan	X		X*	X
Updated Project Management Documents	X		X*	
Independent QA/QC Deliverables	X		X	
Quarterly Quality Management Reports	X		X*	
Data Dictionary	X			
Disaster Recovery Plan	X		X*	
Operations and Maintenance Plan	X		X*	
Lessons Learned/Project Close Out Reports	X	X	X*	

STATUS REPORTS

FCMS has been sending regular communication and project status reports to stakeholders weekly since the project Kick-Off in February. Please see (FCMS Project Status Reports) and the example below for our project status updates.

March 22 nd Project Status Report High Level Milestones	Status
30/60/90 Day Plan execution	
FCMS Request for Proposal (RFP)	
EIS Stage 1 Initiation	
IT Investment Form (ITI)	
Business Case	
Charter	
Hittner Project Status- overall health Medium High Risk – trending positive see quarterly report for Feb 2024	
Hittner Procurement Status- High Risk (Risk Closed)	
Hittner Budget Status- Medium Risk	
Hittner Schedule Status- High Risk	
Hittner Resources Status- Medium High Risk	
Hittner Scope Status- High Risk	

MILESTONES AND SCHEDULE

The FCMS project team is currently tracking to the 30/60/90-day plan schedule that will go through May. During this 90-day cycle, the project manager is working on finetuning the actual project schedule in Asana and has made good progress. The official schedule will be ready to review in the next LFO report. Efforts have focused on project re-engagement across all stakeholder groups and are primarily aligning to DAS and the EIS Stage Gates with renewed effort on the Project Charter, Business Case, Project Scope and Requirements review.

Start and end dates for milestones, like project phases and corresponding deliverables “products” will be created (e.g., technical manual, test scripts) with the support of the procured Quality Assurance Vendor.

Task name	Assignee	Start Date	Due date	Priority	Task Progress	Accountable
FCMS Project Restart 30/60/90 Plan						
30/60/90 Day Plan	Mary Knoblo...	Feb 13	May 10	High	In Progress...	MK
FCMS Project Documents Refresh for Main Documents	Mary Knoblo...	Feb 13	Mar 12	High	Done	MK
Locate & Review Past Documents	Mary Knoblo...	Feb 14	Mar 12	High	Done	MK
FCMS (Charter, Business Case, RFP), etc	Mary Knoblo...	Feb 14	Mar 12	High	In Progress...	MK
Identify areas needing further inquiry & analysis (to be used for WBS/Workpl	Mary Knoblo...	Feb 14	Mar 12	High	Done	MK
Set up project structures & tools (Asana, Daily Stand Ups, Weekly Reporting)	Mary Knoblo...	Feb 14	Mar 12	High	Done	MK
Onboard & align strategy, approach, plans with new CIO	Mary Knoblo...	Feb 15	Mar 12	High	Done	MK
Identify & Confirm Stakeholders Business (Schedule Kick off Mtg) (Complete)	Mary Knoblo...	Feb 15	Mar 12	High	Done	MK
Develop Communications Plan (Update existing document) (1 hr meeting)	Mary Knoblo...	Feb 15	Mar 12	High	In Progress...	MK
Set up monthly Steering Committee mtgs	Mary Knoblo...	Feb 15	Mar 12	High	Done	MK
Review & Refine 1000 Requirements from RFP FCMS (Find Word Version)	Mary Knoblo...	Feb 20	Apr 30	High	In Progress...	MK
Continue to develop project plan/schedule WBS	Mary Knoblo...	Feb 20	Apr 12	High	In Progress...	MK
Onboard Business Analysts	Mary Knoblo...	Feb 20	Apr 12	High	Not Start...	MK
Engage with State of Idaho regarding their Legal Server Implementation (Anr	Mary Knoblo...	Mar 26	Apr 12	High	Done	MK
Develop RACI for project team (update previous document)	Mary Knoblo...	Mar 26	Apr 12	High	Not Start...	MK
Plan out next 120 days of work Asana (April 8 – Aug 3)	Mary Knoblo...	Mar 26	Apr 12	High	Done	MK
Update & Approve RFP (DAS for language accuracy)	Mary Knoblo...	Mar 27	Apr 24	High	In Progress...	MK

30/60/90 DAY PLAN

High Level Milestones	FY24Q1			FY24Q2		
	January	February	March	April	May	June
30/60/90 Day Plan	On Hold	In Progress	In Progress	In Progress	Due	
FCMS- Vendor Track	On Hold	Research	Research	Research		
Hire BSA's	On Hold	Req in	In Progress	In Progress	Due	
Workplan for BSA's, Sys Architect, Data Analyst	On Hold	Not Started	Not Started	Not Started		
RFP mid/late March to Mapsys & LegalServer (Before Spring Break)	On Hold	Research	Research	Research		
Requirements Review	On Hold	In Progress	In Progress	In Progress	Due	
Documentation	On Hold	In Progress	In Progress	In Progress		Due
Project Tracking WBS - Asana	On Hold	In Progress	In Progress	In Progress		Due
Finalize stakeholder List	On Hold	In Progress	Completed			
Communications Plan	On Hold	Not Started	In Progress	In Progress	Due	
Project Meetings Cadence	On Hold	In Progress	Completed			

New Roles and Responsibilities Matrix	On Hold	Not Started	Not Started	In Progress	Due	
Steering Committee Activation	On Hold	Not Started	In Progress	Completed		
CIO Alignment / Onboard	On Hold	Not Started	In Progress	Due		
FCMS Project Documents Refresh for Main Documents	On Hold	In Progress	Completed			
Locate & Review Past Documents	On Hold	In Progress	Completed			
FCMS (Charter, Business Case, RFP), etc.	On Hold	In Progress	In Progress	In Progress	Due	
Identify areas needing further inquiry & analysis (to be used for WBS/Work planning)	On Hold	In Progress	Completed			
Set up project structures & tools (Asana, Daily Stand Ups, Weekly Reporting) (Completed)	On Hold	In Progress	Completed			
Onboard & align strategy, approach, plans with new CIO	On Hold	In Progress	Completed			
Identify & Confirm Stakeholders Business (Schedule Kick off Mtg) (Complete) (Don't wait for t	On Hold	In Progress	Completed			
Develop Communications Plan (Update existing document) (1 hr. meeting)	On Hold	In Progress	In Progress	In Progress	Due	
Set up monthly Steering Committee mtgs	On Hold	In Progress	Completed			
Review & Refine 1000 Requirements from RFP FCMS (Find Word Version)	On Hold	In Progress	In Progress	In Progress		Due
Continue to develop project plan/schedule WBS	On Hold	In Progress	In Progress	In Progress		Due
Onboard Business Analysts	On Hold	Not Started	Not Started	Not Started		Due
Engage with State of Idaho regarding their Legal Server Implementation	On Hold	Not Started	Not Started	Not Started		Due
Develop RACI for project team (update previous document)	On Hold	Not Started	In Progress	In Progress	Due	
Plan out next 120 days of work Asana (April 8 – Aug 3)	On Hold	In Progress	In Progress	In Progress	Due	
Update & Approve RFP (DAS for language accuracy)	On Hold	In Progress	In Progress	In Progress	Due	
Send RFP (TBD RFP Review & Approval)	On Hold	Not Started	Not Started	Not Started		
Evaluate RFP responses, follow up with questions & pricing	On Hold	Not Started	Not Started	Not Started		
Update Remediation Plan Section for FCMS April 2024	On Hold	In Progress	In Progress	Completed		
Prepare LFO FCMS Report for April 2024	On Hold	In Progress	In Progress	Completed		
RFP Items Below to Update for DAS	On Hold	In Progress	In Progress	In Progress		
Prioritized Requirements (HML or Critical, Important, Nice to Have) IN PROGRESS	On Hold	In Progress	In Progress	In Progress		Due
Terms & Conditions - Look at DOJ T&C	On Hold	Not Started	Not Started	Not Started		Due
Data Analysis of Network/Databases work	On Hold	In Progress	In Progress	In Progress		Due
# Interfaces/Information	On Hold	In Progress	In Progress	In Progress		Due
Data Ownership	On Hold	In Progress	In Progress	In Progress		Due
Vendor Vetting (Past Customers, Data Breaches, FedRamp, CJIS, etc.) -	On Hold	In Progress	In Progress	In Progress		Due
Executive Summary	On Hold	Not Started	Not Started	Not Started		Due
Change Orders - Look at DOJ For examples with FCMS documents	On Hold	Not Started	Not Started	Not Started		Due
Table of Contents (TABS)	On Hold	In Progress	In Progress	In Progress		Due
Functional Specs & Non-Functional Specs	On Hold	In Progress	In Progress	In Progress		Due
Selection Criteria (Points, etc.)	On Hold	Not Started	Not Started	Not Started		Due
Proper Legal Terms (Ralph – DAS)	On Hold	Not Started	Not Started	Not Started		Due

PROJECT DELIVERABLES

The below table represents the deliverables as currently identified. As the PMP currently serves as a working document, the deliverable table will also be revised as all parties have been identified and procured.

No.	Name	Resource
S1	Initiation	FCMS Project Team
S1.1	Quality Assurance	FCMS Project Team, Hittner
S1.1.1	QA Review of Project to date	Hittner
S1.1.2	Risk Assessment	Hittner
S1.1.3	Quality Planning	Hittner
S1.1.4	Quality Control	Hittner
S1.1.5	Quality Assurance Status and Improvements Reporting	Hittner

S2	Solution Analysis & Planning	FCMS Project Team
S2.1	Project Kickoff	FCMS Project Team
S2.1.1	Steering	
S2.2	Project Plan	FCMS Project Team
S2.2.1	Communication Plan	FCMS Project Team
S2.2.2	Resource Management Plan	FCMS Project Team
S2.2.3	Infrastructure Plan	FCMS Project Team
S2.2.4	Testing Plan	FCMS Project Team
S2.2.5	Data Migration Plan	FCMS Project Team

S2.2.6	Off Ramp Plan	FCMS Project Team
S2.2.7	Change Management Plan	FCMS Project Team
S2.2.8	Requirements Traceability Matrix	FCMS Project Team
S2.2.9	Risk and Issue Management Plan	FCMS Project Team
S2.2.10	Organization Change Management Plan	FCMS Project Team
S2.3	Requirements	FCMS Project Team
S2.3.1	Draft	FCMS Project Team
S2.3.2	Review	FCMS Project Team
S2.3.3	Approve	FCMS Project Team
S2.4	System Vendor RFP	FCMS Project Team, Hittner
S2.4.1	Release RFP	FCMS Project Team
S2.4.2	Review Submissions	FCMS Project Team
S2.4.3	Vendor Selections	FCMS Project Team
S2.4.4	Draft Vendor Contract	FCMS Project Team
S2.4.5	Negotiate Contract Terms	FCMS Project Team
S2.4.6	Contractor SOW	FCMS Project Team
S2.4.7	Sign Vendor Contract	FCMS Project Team
S3	Implementation Planning	FCMS Project Team
S3.1	Contractor SOW	FCMS Project Team
S3.2	Baseline Project Plan	FCMS Project Team

S3.3	System Security Plan	FCMS Project Team
S3.4	RFP Documents	FCMS Project Team
S3.5	Scope Document	FCMS Project Team
S3.6	Schedule Milestone Summary	FCMS Project Team
S3.7	Budget	FCMS Project Team
S3.8	Deliverable Management Plan	FCMS Project Team
S3.9	RTM	FCMS Project Team
S3.10	Test Evaluation Documents	FCMS Project Team
S3.11	Cloud Workbook	FCMS Project Team
S3.12	LFO Readiness Assessment	FCMS Project Team
S3.13	Execution	FCMS Project Team
S3.14	System Security Plan	FCMS Project Team
S3.15	Executed Contracts & Amendments	FCMS Project Team
S3.16	Updated Project Management Documents	FCMS Project Team
S3.17	Project Status Reports & Risk Logs	FCMS Project Team
S3.18	Independent QA Deliverables	Hittner
S3.19	Quarterly Quality Management Reports	Hittner
S3.20	Disaster Recovery Plan	FCMS Project Team
S4	Project Closing	FCMS Project Team
S4.1	Lessons Learned	FCMS Project Team

FCMS PROJECT SCHEDULE HIGH LEVEL MILESTONES

Del	Task	Start Date	Target Delivery
Y	Conduct Procurements.	Oct-23	Jun-24
Y	Develop Project Charter.	Feb-24	Mar-24
	Identify stakeholders and collect requirements.	Feb-24	Mar-24
Y	Define Scope Statement.	Feb-24	Mar-24
Y	Create Work Breakdown Structure (WBS).	Feb-24	Mar-24
Y	Develop Project Management Plan.	Feb-24	Mar-24
Y	Define Activity List.	Feb-24	Mar-24
	Sequence Activities.	Feb-24	Mar-24
	Estimate Activity Resources.	Feb-24	Mar-24
	Estimate Activity Durations.	Feb-24	Mar-24
Y	Develop Schedule.	Feb-24	Mar-24
	Estimate Costs.	Feb-24	Mar-24
Y	Determine Budget.	Feb-24	Mar-24
Y	Plan Quality Management.	Feb-24	Mar-24
Y	Plan Resource Management.	Feb-24	Mar-24
Y	Plan Communications Management.	Feb-24	Mar-24
Y	Plan Risk Management.	Feb-24	Mar-24

Y	Identify Risks.	Feb-24	Mar-24
Y	Perform Qualitative Risk Analysis.	Feb-24	Mar-24
Y	Perform Quantitative Risk Analysis.	Feb-24	Mar-24
Y	Plan Risk Responses.	Feb-24	Mar-24
Y	Plan Procurement Management.	Feb-24	Jun-24
Y	Plan Stakeholder Engagement.	Feb-24	Jun-24
Y	Direct and Manage Project Work.	Mar-24	Jun-24
	Manage Project Knowledge.	Mar-24	Jun-24
	Manage Quality.	Mar-24	Jun-24
	Acquire Resources.	Mar-24	Jun-24
	Develop Team.	Mar-24	Jun-24
	Manage Team.	Mar-24	Jun-24
	Manage Communications.	Mar-24	Jun-24
	Implement Risk Responses.	Mar-24	Jun-24
	Manage Stakeholder Engagement.	Mar-24	Jun-24
	Monitor and Control Project Work.	Mar-24	Jun-24
	Perform Integrated Change Control.	Mar-24	Jun-24
	Validate Scope.	Mar-24	Jun-24
	Control Scope.	Mar-24	Jun-24

	Control Schedule.	Mar-24	Jun-24
	Control Costs.	Mar-24	Jun-24
	Control Quality.	Mar-24	Jun-24
	Control Resources.	Mar-24	Jun-24
	Monitor Communications.	Mar-24	Jun-24
	Monitor Risks.	Mar-24	Jun-24
	Monitor Stakeholder Engagement.	Mar-24	Jun-24
Y	Develop Governance Framework Document.	Mar-24	Jun-24
Y	Governance Gate: Project Initiation Review.	Apr-24	Jun-24
Y	Create Data Security and Privacy Plan.	Apr-24	Jun-24
Y	Governance Gate: Planning Review.	Apr-24	Sep-24
Y	Develop System Specifications Document.	May-24	Sep-24
Y	Develop Request for Proposal (RFP) Document.	May-24	Sep-24
	Distribute RFP to Qualified Vendors.	Oct-24	Jun-24
	Evaluate Vendor Proposals.	Oct-24	Jun-24
	Control Procurements.	Oct-24	Dec-24
	Select System Vendor.	Dec-24	Jun-24
Y	Contract Negotiation and Signing.	Jan-25	Jun-24
Y	Develop System Design Document.	Jan-25	Jun-24
	Review and Approve System Design.	Jan-25	Jun-24
Y	Develop Training Program for Users.	Feb-25	Jun-24
	System Development by Vendor.	Feb-25	Jun-24
	Progress Review Meetings with Vendor.	Mar-25	Jun-24
	Change Management Implementation.	Mar-25	Jun-24
	System Testing in Staging Environment.	Mar-25	Jun-24
	Issue Resolution and Re-testing.	Mar-25	Jun-24
Y	Regulatory Compliance Verification.	Apr-25	Jun-24
	Prepare Production Environment.	Apr-25	Jun-24
Y	Conduct User Training Sessions.	Apr-25	Sep-24
Y	Data Migration to New System.	Apr-25	Sep-24
	Data Integrity and Accuracy Verification.	Apr-25	Sep-24
Y	User Acceptance Testing (UAT).	Apr-25	Sep-24
	Resolve UAT Feedback Issues.	Apr-25	Sep-24
Y	Finalize Operational Documentation.	Apr-25	Dec-24
	Governance Gate: Design Review.	May-25	Dec-24

Y	Production Environment Deployment.	Jun-25	Dec-24
	Post-Deployment Monitoring for Issues.	Jun-25	Dec-24
Y	Establish System Maintenance Plan.	Jun-25	Dec-24
	Post-Implementation Review Meeting.	Jun-25	Dec-24
Y	Finalize Issue Resolution Post-Deployment.	Jun-25	Dec-24
Y	Operational Handover.	Jun-25	Dec-24
	Develop System Enhancement Plan.	Jun-25	Dec-24
Y	Ongoing Compliance with Governance Framework.	Jun-25	Dec-24
	Monitor System Utilization and Gather Feedback.	Jun-25	Mar-25
	Periodic System Performance Reviews.	Jun-25	Mar-25
	Implement System Enhancements/Updates.	Jun-25	Mar-25
Y	Update System Documentation Regularly.	Jun-25	Mar-25
Y	Ongoing User Training and Support.	Jun-25	Mar-25
Y	System Issue and Request Management Process.	Jun-25	Mar-25
Y	Review and Update Governance Documents.	Jul-25	Mar-25
	Governance Gate: Implementation Review.	Jul-25	Jun-25
	Plan for Future System Scalability.	Jul-25	Jun-25
	Integrate with Other Systems if Required.	Jul-25	Jun-25
	Continuous Improvement Plan for System.	Aug-25	Jun-25
Y	Establish Key Performance Indicators (KPIs).	Aug-25	Jun-25
Y	Regular Reporting to Stakeholders.	Aug-25	Jun-25
Y	Annual System Audit.	Aug-25	Sep-25
Y	Update Risk Management Plan.	Aug-25	Sep-25
Y	Review and Adjust Project Management Plan.	Sep-25	Sep-25
	Stakeholder Engagement Review and Update.	Sep-25	Sep-25
Y	Lessons Learned Documentation.	Sep-25	Dec-25
	Governance Gate: Post-Implementation Review.	Sep-25	Dec-25
Y	Project Closure Document.	Sep-25	Dec-25
Y	Formal Project Closure and Stakeholder Sign-off.	Sep-25	Dec-25

FCMS RFP PROGRESS

RFP Requirements review is underway by Project Manager Mary Knoblock. FCMS Stakeholders identified in the stakeholder's matrix above have been included in groups of land requirement review sessions through April. The groups are Legal, Finance, Data, IT. The requirement review sessions are going through 800 requirements identified to vet for the new F/CMS program. The categorization of requirements is paid close attention to as it was requested to go to a further level of detail before submitting the RFP again. The RFP will have categorizations of Critical, Important, Nice to Have, and Not Required. See appendix FCMS RFP.

A significant deep dive into OPDC's network environment was started with our project network SME, and Database Requirements are underway. This is an important step in learning the foundation of OPDC's tech stack and understanding where the data resides for FCMS.

OPDC has a total number of 18 databases; 8 of them have front-end interfaces for users to interact with and enter data into. For these 8, IT is creating maps to outline the interaction between the user and the data. In addition, OPDC currently already have a database relations map, but is working to restructure it to better display how all 18 databases interact (or don't) with each other.

There have been created two excel sheets with data about the databases: Data Dictionary and Data Volumes. The Data Dictionary file details the metadata (Tables, fields, descriptions, sizes, primary keys, foreign keys, etc.) of all 18 databases. The Data Volumes file details the size of the data contained in each of our databases.

Below are all the documents described above and where they stand in regard to completion. All documents can be found in the appendix.

Existing Database Relations Map

- IHR Diagram
- Data Volumes Diagram

Completed Database Process Diagrams:

- APV Diagram
- Attorneys Diagram
- CAS Diagram
- Contacts Diagram
- Contracts Diagram

In progress Database Diagrams:

- Diagram CSS
- Database Relations Diagram
- Data Dictionary

APPENDIX

The following documents are available upon request of OPDC:

FCMS Project Scope

Hittner & Associates Six Week Quality Status Report (February 2024)

FCMS Project Charter

FCMS Project Status Reports

FCMS Business Case

FCMS RFP

FCMS Existing Database Relations Map

FCMS Completed Database Process Diagrams

FCMS In progress Database Diagrams

FCMS Previous FCMS Report

Oregon Public Defense Commission

EXECUTIVE BRANCH TRANSITION

April 10, 2024

NATURE OF THE REPORT

A budget note included with SB 5701(2024) directs the Oregon Public Defense Commission to submit the following report:

The Public Defense Commission is to report to the May 2024 and September 2024 meetings of the Emergency Board on the status of the agency's transition from the judicial to the executive branch of government. The reports are to include up-to-date scope, schedule, and cost information.

The following report is responsive to this budget note.

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EXECUTIVE SUMMARY

The transition of the Oregon Public Defense Commission (OPDC) from the Judicial to the executive branch of government is a comprehensive project aimed at ensuring a smooth integration into the executive branch by January 1, 2025. Senate Bill 337 (2023) initiated this transition, with the objective of aligning OPDC's operations with the standard procedures and expectations of the executive branch. Work in preparing for the transition takes into consideration the [January 11, 2023](#) memo from the Governor setting executive branch agency expectations. This includes developing a strategic plan that outlines clear organizational goals and objectives that align with executive branch expectations laid out by the Governor. A strong strategic plan is key to a successful transition.

Scope: The transition encompasses various tasks, including policy review, strategic planning, staffing assessment, and IT integration. OPDC is committed to meeting executive branch standards and expectations, guided by the Governor's directives.

Schedule: A detailed timeline outlines key milestones, such as initial conversations with the executive branch, policy review, strategic planning, and staff assessment. Quarterly gap analysis ensure progress alignment and timely adjustments.

Budget: A \$5 million special purpose appropriation (SPA) supports the transition, OPDC is well within the SPA allocation.

Transition Teams: OPDC has established specialized work teams focusing on Administration, Information Technology, Human Resources, Procurement, and Finance. Each team aligns policies and procedures with executive branch standards and addresses Governor's expectations.

Risk: The Oregon Public Defense Commission (OPDC) met with the Department of Administrative Services (DAS) in October 2023 to review focus areas for the transition to the Executive Branch. The two major areas of risk identified were Information Technology (IT) and Procurement.

- OPDC has contracted with a project manager to lead the agency's Information Technology (IT) transition to the Executive branch.
- Three procurement positions were requested during the 2024 legislative session, but the request was denied. OPDC is in conversation with the Department of Justice regarding assisting with contract development to ensure that agreements are in alignment with state contracting laws and procedures. OPDC anticipates another request for procurement assistance during the May Emergency Board meeting.

Moss Adams Consulting: Moss Adams provides expertise in organizational development, strategic planning, and transition management. Their engagement ensures effective implementation of critical initiatives over the next five years, including strategic and transition planning.

Information Technology Transition: A dedicated IT team, led by a newly hired CIO, focuses on transitioning IT services from the Judicial to the Executive branch. A quarterly gap analysis guides staffing requirements, while maintaining cost-effective and seamless IT operations.

The executive branch transition of OPDC represents a significant organizational endeavor, ensuring alignment with executive standards, strategic planning, and effective IT integration. With comprehensive planning, strategic partnerships, and diligent execution, OPDC aims for a successful transition by January 1, 2025, positioning itself for long-term growth and operational excellence within the executive branch.

EXECUTIVE BRANCH TRANSITION

SCOPE

Senate Bill 337 (2023) transitions the Oregon Public Defense Commission (OPDC) from the Judicial to the Executive branch of government on January 1, 2025. The goal of this transition is for OPDC to enter the executive branch as a functioning agency that is already meeting the standard operating procedures and expectations of the executive.

This means that all actions necessary to meet that standard are within the scope of the transition project. Along with standard procedures and policies, OPDC is working off of the Governor's expectations as outlined in her [letter](#) dated January 11, 2023 and detailed [here](#). These are what OPDC will be measuring itself off, as well as what will determine if an activity falls within the scope of this project.

SCHEDULE

Below is a high-level schedule of transition work. The schedule is further broken down under the Transition Teams section of this report.

Task	Start	End
Initial Conversations with the Executive Branch	May 2023	June 2023
Executive Project Manager Starts	Aug 2023	
Establish Executive Transition Workgroups	Aug 2023	Sep 2023
Review Existing Policies and Identify Gaps	Sept 2023	Dec 2023
Initial Gap Analysis	Oct 2023	Oct 2023
Internal Work to Align Policies/Procedures	Jan 2024	Sep 2024
2 nd Gap Analysis for May Legislative Days	Mar 2024	Mar 2024
Moss Adams Consultant Brought On	Mar 2024	
Strategic Plan	Mar 2024	July 2024
Executive Move Implantation Plan	Jun 2024	Oct 2024
3 rd Gap Analysis for Sep Legislative Days	Aug 2024	Aug 2024
4 th Gap Analysis for Dec Legislative Days	Oct 2024	Oct 2024
Process Improvements	Dec 2024	Feb 2025
Policy and Procedure Review/Development	Dec 2024	Feb 2025
Organization Staffing & Structure Assessment	Nov 2024	Jan 2025
Transition to Executive Branch	Jan 2025	

BUDGET

OPDC 2023-25 Budget included a \$5 million special purpose appropriation (SPA) for the transfer of the Public Defense Services Commission to the executive branch. During the 2024 session OPDC requested \$1.2 million of that SPA for staffing identified through a gap analysis

as being necessary for the transition. OPDC will revisit this gap analysis quarterly and likely make further requests to access this SPA for staffing and resource needs.

OPDC also requested \$500,000 to contract with an outside contractor to help in the transition. This request was initially an additional request for SPA funding, but the Legislature provided general fund dollars instead. OPDC's contract with Moss Adams is for \$250,000 with a not-to-exceed \$500,000. This not-to-exceed language allows Moss Adams, at the request of the commission, to bring on additional personnel resources should they be needed to facilitate the implementation of the transition plan.

The budget for this transition is still well within the \$5 million SPA allocated, and the Moss Adams contract has not exceeded the \$500,000 appropriation.

TRANSITION TEAMS

In preparation for the transition ODPC has put multiple workgroups in place. In addition to the Governor’s expectations, the agency has done significant work to bring policies and procedures in line with the executive branch. This work has been broken up and assigned to five work teams: Administration, Information Technology, Human Resources, Procurement, and Finance. These teams are led by division/department managers and are focused on evaluating, updating, and creating policies and procedures to align with the executive branch, and three of the groups are also working on implementing Governor expectations.

Governor Expectation	Team
Performance Reviews for Agency Directors	Administration
Performance Feedback for Employees	Human Resources
Measuring Employee Satisfaction	Human Resources
Supporting Strategic Planning and Measuring Agency Performance	Administration
Managing Information Technology Progress	Information Technology
Succession Planning for the Workforce	Human Resources
State Government Commitment to Diversity, Equity and Inclusion	Administration
Agency Emergency Preparedness	Administration
Agency Hiring Practices	Human Resources
Audit Accountability	Administration
Developing New Employees and Managers	Human Resources
Agency Identified Area of Work	
Procurement	Procurement
Facilities	Procurement
Risk Management	Procurement
Budget	Finance
Finance	Finance

ADMINISTRATION

The Administration team is led by OPDC’s Executive Transition Project Manager and comprised of the agency’s executive team. It is responsible for the aligning the administrative functions of the agency with the executive branch. This work includes:

- Working with Moss Adams on the agency’s strategic plan, which includes DEI.
- Working with the Commission on a performance review of the Executive Director.
- Developing an agency emergency preparedness plan.
- Developing administrative rules as needed.
- Reviewing/updating/creating administrative policies as needed.

The executive transition project manager is also generally responsible for monitoring progress, keeping other teams on track, and identifying risks facing the transition. With a wealth of experience from her time working in the executive branch, particularly in DAS, she has helped

connect the agency with the right people in the executive branch and, generally, has put OPDC on the right track to move forward successfully.

Additional details about Moss Adams and the transition plan can be found below under *Moss Adams*.

Task	Start	End
Initial Conversations with the Executive Branch	May 2023	June 2023
Executive Project Manager Starts	Aug 2023	
Establish Executive Transition Teams	Aug 2023	Sep 2023
Developed OPDC Remediation Plan	Oct 2023	Jan 2024
Initial Gap Analysis	Oct 2023	
2 nd Gap Analysis for May Legislative Days	Mar 2024	
Develop agency strategic plan	Mar 2024	July 2024
Develop agency transition plan	Mar 2024	July 2024
3 rd Gap Analysis for Sep Legislative Days	Aug 2024	
Identify and train administrative rules coordinator	Jul 2024	Aug 2024
Agency director performance 360	Aug 2024	Nov 2024
Create administrative rules as needed	Aug 2024	Nov 2024
Developing an agency emergency preparedness plan	Sep 2024	Dec 2024

HUMAN RESOURCES

OPDC is exempt from ORS 240 which is the statute that regulates most human resource related issues within state agencies. However, OPDC is committed to adopting and adhering to executive branch policies as the default, and only deviating if necessary.

Task	Start	End
Review and update policies to align to executive branch	Nov 2023	Sep 2024
Update organizational charts	Nov 2023	April 2024
Reviewing position descriptions to ensure they correctly align with class/comp standards	Dec 2023	Mar 2024
Develop employee onboarding process	Feb 2024	Apr 2024
Employee satisfaction plan	Apr 2024	Jun 2024
Employee development plan	Apr 2024	Aug 2024
Employee training plan	Apr 2024	Aug 2024
Develop/implement performance feedback process	Jun 2024	Aug 2024
Develop agency succession plan	Jul 2024	Sep 2024
Review/update of diversity, equity, and inclusion DEI Plan	Aug 2024	Sep 2024

FACILITIES

OPDC does not currently have office space in any state-owned facilities. OPDC does engage DAS Leasing services when acquiring office space. OPDC is reviewing DAS policies related to facility use and working to adopt those that apply to OPDC leased facilities.

Task	Start	End
Worked with DAS to lease office space for Northwest and Southern Trial Division offices	Oct 2023	May 2024
Update and write policies to align with exec branch	Nov 2023	Sep 2024
Northwest Trial Office opened	Dec 2023	
New Facilities Manager hired	Feb 2024	
Southern Trial Office scheduled to open	May 2024	
Central Valley Trial Office scheduled to open	April 2024	
Review agency continuity plan	Jul 2024	Sep 2024

PROCUREMENT

Procurement, along with IT, is the biggest areas of change for OPDC. The agency has been exempted from procurement statutes since its inception. This has led to OPDC contracts being administered by program analysts, who are also serving as program administrators. The result is that the same people who are technically responsible for contract administration are the same people who are tasked with supporting providers in their contracts. Moreover, this is a process where numerous amendments are made to contracts monthly to accommodate provider workload changes, changes in qualifications, and to address provider staffing issues. This is an inherent conflict of interest, as procurement and contract management should be separate from the administration of program functions and oversight. Due to the large volume of procurement work being generated on a regular basis, analysts are unable to provide the oversight needed to properly monitor the program and evaluate performance.

As the agency has evolved, the lines of responsibility have been blurred and the division of labor, expertise and decision making is compromised. Procurement staff are responsible for compliance with procurement law, posting procurements and managing the procurement process, while program analysts perform the contract administration, performance monitoring, program development to include the establishment of policies and process. Due to the current workload, analysts have had to prioritize the contract work while setting aside the evaluation of the program outcomes to determine success. This dynamic is placing the agency at risk as the analysts are not focused on developing the programmatic needs of the agency as it grows from a pass-through agency to one that will not only contract with providers but one that also provide direct services. This current process is cumbersome and creates a tremendous liability for the Commission when trying to report to the Legislature and account for caseloads and funding.

OPDC recognizes the need to develop a procurement team with DAS required training prior to the transition. In February 2024 OPDC requested three procurement positions, none of which were funded. OPDC intends to make another request for these positions during the May Emergency Board meeting.

OPDC is currently working with DOJ to develop provider contracts for the 2025-2027 biennium contract cycle to ensure compliance with state contracting standards and requirements. The new

contracts will separate contractual language and deliverables from program elements and instead refer to established commission policies and procedures. The program analyst will refocus and help standup the new programmatic needs of the agency, while working with the CAP unit to help develop and enhance measures for performance monitoring.

Task	Start	End
Review current contracting work and position descriptions	Sept 2023	Nov 2023
Request procurement position from 2024 Legislature	Feb 2024	
Develop process for provider contracts to fully align with statewide procurement requirements	Nov 2023	Sep 2024
Request procurement positions	May 2024	
Work with DOJ to develop 25-27 provider contracts	April 2024	July 2025
Update and write policies to align with exec branch.	April 2023	Sep 2024
Procurement training and certifications	Jul 2024	Dec 2024
Oregon Buys - staff access/training	Jul 2024	Dec 2024

RISK

DAS is currently providing OPDC with risk insurance coverage. OPDC and DAS Risk Management are working cooperatively to ensure that the proper coverage is in place given the recent growth.

Task	Start	End
Review existing risk coverage	Oct 2023	Apr 2024
Update and write policies to align with exec branch	Apr 2024	Sep 2024
Identify risk manager and ensure training	Jul 2024	Nov 2024

FINANCE

BUDGET

OPDC currently operates in concurrence with DAS accounting policies and rules. Moving forward OPDC will participate in the executive branch budget development process. OPDC has been in conversation with the Governor's Office and DAS to discuss a hybrid process for the 2025-27 biennium.

Task	Start	End
Reviewing and updating policies/processes	Jul 2023	Oct 2023
Update and write policies to align with exec branch	Nov 2023	Sep 2024
CFO 25-27 exercise	Feb 2024	Apr 2024
Build 2025-2027 Current Service and Agency Request Budgets	Mar 2024	Aug 2024
Monthly CFO check-ins in preparation for move	Feb 2024	Dec 2024
All budget activity and policy align with Executive Branch	Jan 2025	

DAS-OEA POPULATION FORESCAST

SB 337 (2023) requires the Oregon Department of Administrative Services, Office of Economic Analysis (OEA) to issue a state public defense population forecast including, but not limited to, expected populations of adults and juveniles eligible for appointed counsel. The state public defense population forecasts are to be released on April 15 and October 15 of each year.

OPDC signed an interagency agreement with OEA in late 2023 for this work. OPDC, OEA, and the Oregon Judicial Department met on several occasions to review existing forecast methodology, data inputs and how the forecast feeds into contracting and budgeting. OEA anticipates releasing preliminary data to OPDC no later than April 10 with the final release of the forecast being announced on April 15.

MOSS ADAMS – ORGANIZATIONAL DEVELOPMENT CONSULTING

INTRODUCTION

Moss Adams will be assisting with long-term organization development to assist the Commission in achieving critical initiatives over the next five years. Moss Adams has an in-depth understanding of public defense in Oregon having previously partnered on the Oregon Project and OPDC's six-year plan to reduce the representation deficiency. Additionally, they are currently working on the hourly rate survey and economic analysis (SB 337 (2023)). As Moss Adams was contracted with the agency in mid-March, and this report is being submitted early April, more information and timelines about their work will be available soon. OPDC will bring provide additional information during the May legislative days.

ENGAGEMENT PLAN

STRATEGIC PLAN

Work in preparing for the transition is taking into consideration the [January 11, 2023](#) memo from the Governor setting executive branch agency expectations. This includes developing a strategic plan that outlines clear organizational goals and objectives that align with the executive branch expectations laid out by the Governor. A robust strategic plan is key to a successful transition.

The strategic plan will be a comprehensive roadmap outlining OPDC's vision, mission, goals, and strategies for the next five years. It will serve as a guiding framework for decision-making and resource allocation, aligning OPDC's actions with its long-term objectives. By articulating clear priorities, anticipating challenges, and leveraging opportunities, the strategic plan will empower OPDC to adapt to changing environments, capitalize on strengths, and navigate uncertainties, thereby positioning it for sustainable growth and success in the future.

The plan will be accompanied by an annual planning calendar and supportive templates designed to make the strategic plan a living document. The strategic plan will integrate current and

proposed work, diversity, equity, and inclusion, as well as additional initiatives from across the organization to create a grounding document to guide OPDC for the next five years.

IMPLEMENTATION PLAN

To aid in the operational and change management aspects of OPDC’s transition to the executive branch Moss Adams will assist in developing a comprehensive transition plan. To ensure transition by January 2025 the plan will capture the full scope of operational considerations to enable OPDC to effectively shift to this new structure. The plan will outline the activity, responsible party, required resources, timing, and as relevant associated costs.

ADDITIONAL SUPPORT

OPDC’s contract with Moss Adams is for \$250,000 with a not-to-exceed clause of up to \$500,000. The not-to-exceed in this contract provides the opportunity to have additional staff available on a very short-term, limited duration, but immediate basis to assist with specific pieces of the transition plan. Examples include but are not limited to project managers that could:

- Assist with implementation of a records management plan.
- Review existing statutes and processes to determine where/if agency administrative rules would be necessary/beneficial.
- Assisting with review of procurement requirements to ensure OPDC is prepared for the additional responsibilities.

SCHEDULE

Task	Start	End
Project kickoff, agency staff input, commission input, and analysis.	Mar 2024	April 2024
Management work sessions, draft (mission, vision, values, goals), and all staff survey.	May 2024	June 2024
Draft strategic and transition plans, staff and commission review of plan, final strategic and transition plans.	June 2024	July 2024
Focus on implementing transition plan.	Aug 2024	Dec 2024

INFORMATION TECHNOLOGY TRANSITION

Information Technology is one of the largest pieces of the transition from the judicial to the executive branch, as such it is being given special focus. The information technology team is led by OPDC's newly hired CIO, along with a contracted project manager specifically focused on the IT transition work.

OPDC will require a complete suite of IT services following the transition, as most IT services are currently provided by OJD. Between October and December 2023 OPDC worked with OJD and DAS-EIS on a gap analysis to identify information technology positions that would be needed within OPDC following the transition. During the 2024 legislative session OPDC received approval to hire four additional IT staff members, recruitment for these positions is in progress. Additional gap analysis will be performed quarterly with OJD and DAS-EIS to determine additional IT needs as the transition approaches.

In addition to the general transition of IT and a review of IT policy and procedures, the IT team is responsible for the Governor's expectation of managing information technology progress, which includes creating [an IT strategic plan](#) for the agency.

OPDC is treating the IT Transition as a separate project. A project manager is currently in the recruitment process. In scope for April is documenting project sponsor, governance committee, and project team. New OPDC IT positions are completing interviews. Once hired, they will provide strategic guidance on forward progress and next steps.

MARCH PROGRESS UPDATE

- CIO first review of ETSD services overview document;
- Recruiting for a dedicated IT transition project manager;
- Recruiting for a M365 administrator and server administrator;
 - Interviews completed 4/3/2025;
- OPDC IT met with State Data Center Cloud Services and Enterprise Network Services for consultation;
- Created CoreView requests to meet with State Data Center x86 Services and M365 departments for consultation;
- Procured SD-WAN state network services for the Southern Trial Division office;
 - This will provide the network template for OPDC;
 - Coordinating with ETSD and DCS to bridge networks.

SCOPE

IN SCOPE

- Procure associated services and hardware to support the IT transition.

- Maintain a similar cost structure of the current services & hardware (Judicial Branch)
- End user training of the new services and tools for the OPDC team.
- Maintain current technical tools (i.e., databases and spreadsheets) with limited or no changes to each function until it has been transitioned.

OUT OF SCOPE

- New hardware/software not directly related to the IT transition to the Executive Branch.
- System generated budget projections, payroll management, supply procurement, personnel management.
- New or redesigned office spaces, office furniture, and facilities.
- Other projects not directly related to IT transition to the Executive Branch.

SCHEDULE

Task	Start	End
Gap Analysis with DAS and OJD	Oct 2023	
Request positions	Dec 2023	
IT project managers start	Feb 2024	
New CIO starts	Feb 2024	
Second gap analysis with OJD, DAS, new CIO	Mar 2024	April 2024
Finalize and approve project charter	April 2024	
IT positions from short session start	April 2024	
First round IT transition work (M365, web services, desktop and mobile support, Nintex, and triage)	April 2024	July 2024
Finalize and approve project business case and schedule.	May 2024	
Request positions from emergency board (2 nd gap analysis)	May 2024	
2 nd gap analysis positions start	Jun 2024	
Second round IT transition work (based on 2 nd gap analysis)	July 2024	Oct 2024
Third gap analysis with OJD, DAS, CIO	July 2024	Aug 2024
Request positions from Emergency Board (3 rd gap analysis)	Sep 2024	
3 rd gap analysis positions start	Oct 2024	
3 rd round IT transition work (based on 3 rd gap analysis)	Nov 2024	Feb 2025
Testing/finalizing/transferring	Nov 2024	Oct 2024
Request remaining positions based on 3 rd gap analysis during session	Jan 2025	June 2025
Final testing/finalizing/transferring	April 2025	June 2025
IT contract with OJD ends, IT provided by OPDC and DAS	July 2025	

Oregon Public Defense Commission

REMEDICATION PLAN

Version III

LAST UPDATE: April 8, 2024

NATURE OF THE REPORT

The budget report for SB 5532 (2023) includes Budget Note #1: Comprehensive Remediation Plan:

The Public Defense Services Commission (PDSC) is directed to report to the Interim Joint Committee on Ways & Means throughout the fall of 2023, the Joint Committee on Ways and Means during the Legislative Session in 2024, and quarterly thereafter to the Legislative Emergency Board, on the Commission's restructuring and modernization efforts, including updated caseloads, financial forecasts, and procurement activities including contract amendments and the alignment of contracting with the biennial budget process.

In addition, reporting by the Commission is to include, and be based upon, a comprehensive remediation plan adopted by the Commission that includes the following elements: (1) Issue – identify each specific issue with a concise problem statement (2) Priority – assign each issue a priority; (3) Evidence of Concern – identify evidence supporting the existence of the issue; (4) Objective – identify what objective the agency is trying to achieve through the resolution of the issue; (5) Best Practice(s) – identify what best practices exist related to the resolution of the issue, which can be used to benchmark the options available as well as the recommended option; (6) Options to resolve the issue – identify what specific options exist to resolve the issue; (7) Recommended Option – identify which is the agency's recommended option to resolve the issue, and on what basis was the option selected; (8) Timeframe – identify the timeframe for implementing the recommended option; (9) Fiscal Impact – identify the cost of implementing the recommended option; and (10) Expected Outcome – identify what outcome is expected from the recommended option and how will it be measured.

The following report is an update to the Remediation report submitted by the Oregon Public Defense Commission (OPDC) in January 2024. This report provides updates to the top 25 issues OPDC identified as needing improvement. Addressing these issues focuses OPDC on working towards a unified goal: to restore credibility in the Commission as an efficient and effective administrator of Oregon's public defense system by stabilizing administration to enable OPDC to fulfill its mission of ensuring constitutionally competent and effective legal representation for persons eligible for a public defender.

The Commission approved the submission of the report during their April 17, 2024, meeting.

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EXECUTIVE SUMMARY

The Oregon Public Defense Commission (OPDC) has been working hard to implement the reforms outlined in the Commission's Remediation Plan. Since submitting the Remediation Plan II report in January 2024, the Commission has made significant progress addressing these issues. To highlight a few:

Commission Governance

- Onboarded new Commission.
- Bylaws adopted at April meeting.

Public Defense

- Brought three regional trial offices online, including hiring attorneys and support staff.
- In custody unrepresented numbers are trending downward, 75% lower than the peak in July 2023.
- Improved unrepresented persons processes – new handout available in eight languages.
- Launching pilot program with three court administrators to streamline counsel assignment communication.
- First of two retention incentive payments set for April 2024.
- Salary study underway with results due by end of April.
- OEA population forecast due by April 15.
- Six-year plan delivered, would establish budgetary structure to implement workload standards, as directed by SB 337.

Communication

- Twice monthly 'office hours' for providers, covering data reporting, payment, and other rotating topics of interest.
- Hired communications specialist.
- Regular monthly newsletter going out to providers.
- Regular monthly internal newsletter to OPDC staff.
- Weekly PAE email keeping providers updated on PAE processing times.

Organizational Development

- Hired contractor to develop strategic and transition plans (drafts due by June/final July).
- New process and form allowing for a clearer and more efficient way for public defense stakeholders to send notices to OPDC.
- Weekly meetings with Governor's office in preparation for transition.
- FCMS Project back on track.
- Hired chief information officer.
- Hired facilities manager.
- OPDC management team participating in Ascent, a leadership/management training through DAS.
- Beginning interview process for M365 and server administrator positions.
- Collaborating with Data Center Services (DCS), Enterprise Information Services (EIS), and Microsoft on high level executive branch IT transition strategy.
- Standing up first ever State of Oregon Network (non-OJD) for Medford Office. Will serve as a future technology design and standard for OPDC.

- Onboarded new senior policy analyst and data operations analyst for quality control and quality assurance review.
- Revised or developed three policies and two procedures.

The following remediation report provides updates to the remediation plan submitted by OPDC January 16, 2024, and heard by the Joint Committee on Ways and Means during the 2024 legislative session. Rather than republishing the 10-point problem identification plans for each issue, the January report is linked [here](#). Instead, OPDC has restated the Issue and Objective and is providing the following updates on each issue:

- Status Update
- Next Steps
- Timeline

CASELOADS

Below is the caseload data from the contract cycle beginning July 1, 2023, all data as of April 3, 2024.

Appointments by Criminal and Juvenile contract providers:	50,567
Appointments by PCRCP contract providers:	1,749
Appointments by hourly providers at standard rate:	2,676
Appointments under the Temporary Hourly Increased Rate (THIP):	2,329
Appointments taken by OPDC trial attorneys (state employees):	192
Total appointments made since July 1, 2023:	57,513

FINANCIAL FORECASTS

The Financial Forecast presented at the April Commission meeting will be copied here.

PROCUREMENT

OPDC’s contracting is aligned with the biennial budget. Provider contracts are for two years from July 1, 2023- June 30, 2025. Costs and Maximum Attorney Caseloads (MAC) are prorated when attorneys change their MAC or join or start a contract mid-cycle. MAC totals can fluctuate over the course of a contract cycle, as providers enter and exit contracts. MAC for a contract can be increased when a contractor identifies an attorney who is qualified to handle public defense cases and requests that OPDC authorize and fund that attorney to provide public defense services. MAC increases are only authorized when funded MAC is available.

When an attorney leaves a contract, the contractor retains the funding for that attorney for a short period to find a replacement. If no replacement is located, the MAC and funding associated with that contract is freed up for other contractors to request. It should also be noted that when an attorney leaves a contract, OPDC works with that attorney to manage the disposition of the remainder of their open caseload and will fund those cases for which the attorney continues to provide representation at an hourly rate.

Below are the MAC totals that were used to determine the rebalance approved by the Legislature during the 2024 session. This provides a starting place for comparison purposes. It then shows the additional MAC that was brought on in April 2024 with funding from the caseload special purpose appropriation (SPA), the MAC changes pursuant to the quarterly amendments done in April 2024, and finally a change from the original MAC numbers.

These are placeholders, April amendments are in process and data will be added before submission to legislature.

Type	Level	MAC/FTE (as of 12.31.2023)	MAC/FTE Added via 2024 Session Investments	Amendments as of XX/XX/XX	Change from post 2024 session
Adult Trial Division					
Misdemeanor	Attorney 1 (Misdemeanor)	88.23			
Minor Felony	Attorney 2 (Minor Felony, Civil Commitment)	97.42			
Major Felony	Attorney 3 (Major Felony)	153.33			
Murder	Attorney 4 (Capital Murder, Murder)	115.87			
	Total	454.85			
Adult Trial Division - Statewide Contracts					
Post Conviction Relief/Habeas Corpus	Attorney 4	16.15			
Post Conviction Relief appeals	Attorney 4	4.65			
Civil commitment appeals	Attorney 4	2.5			
Civil commitment appeals-PSRB, Padilla Referral contract	Attorney 3	2.49			
PSRB requiring supervision	Attorney 2	1.6			
Murder	Attorney 4	14.79			

	Total	42.18			
Adult Trial Division - Supervision FTE					
	Supervisor-1	0			
	Supervisor-2	0.64			
	Supervisor-3	1.85			
	Supervisor-4	17.04			
	Total	19.53			
Adult Trial Division - Investigation FTE					
	Investigator	57.18			
	Total	57.18			
Adult Trial Total (Contracts, Statewide, & FTE)		573.74			
Total					
Juvenile Trial Division					
Misdemeanor		0			
Minor Felony	Attorney 2 (Delinquency)	5.57			
Major Felony	Attorney 3 (Dependency, Dependency & Delinquency)	78.3			
Murder	Attorney 4 (Murder)	11.29			
	Total	95.16	0	0	0
Juvenile Trial Division - Statewide Contracts					
Juvenile appeals	Attorney 4	2.8			
Murder	Attorney 4	0.6			
	Total	3.4	0	0	0
Juvenile Trial Division -Supervision FTE					
	Supervisor-1	0			
	Supervisor-2	0			
	Supervisor-3	0.43			
	Supervisor-4	0.77			
	Total	1.2	0	0	0
Juvenile Trial Division - Investigation FTE					
	Investigator	1.42			
	Total	1.42	0	0	0
Juvenile Trial Total (Contracts, Statewide, & FTE)		101.18			
Total					
Parent Child Representation Program					
Juvenile Delinquency	PCRP attorney	0.85			
Dependency	PCRP attorney	11.15			
Termination of Parental Rights	PCRP attorney	72.03			
Supervisor		2.77			
Investigator		3.75			
	Total	90.55	0	0	0
PCRP Hourly Providers*					
Contract Case Manager		6.8			

Independent Case Manager		17.8			
Case Manager Administrator	Level 1 Administrator	1			
Senior Case Manager Administrator	Level 2 Administrator	1			
*1 FTE = 1920 hours / year	Total	26.6	0	0	0
PCRP Total (Contracts & Hourly FTE) Total		117.15			

REMEDATION PLAN

UNIFIED COMMISSION AND AGENCY

Issue: Cultivate a unified relationship between the Commission and the agency with clearly defined roles and authority.

Objective: Ensure the agency and commission are acting as one.

Status Update: The Commission held an onboarding retreat in December 2023. In January, the Commission created a subcommittee on governance, which was charged with gathering information and making recommendations to the full commission on (1) commission bylaws, (2) the authorization of additional commission subcommittees, and (3) any additional actions to ensure good governance of the OPDC. The subcommittee has met four times and will be recommending bylaws to the commission for approval during the April 17, 2024 meeting. In addition, the Commission held a two-day meeting in March with significant time dedicated to team building, governance, and setting a foundation for organizational development and strategic planning.

Next Steps: After approving bylaws, the Subcommittee on Governance will monitor those bylaws and make recommendations to the Commission on what standing subcommittees, if any, should be established. The Commission will have additional in person meetings with agency staff in the summer and fall of 2024. At the end of 2024, the Commission will evaluate its compliance with the DAS Best Practices for Boards and Commissions.

Timeline:

- April 2024: Adopt bylaws.
- Spring 2024: Commission administrator starts.
- Spring/Summer 2024: Strategic planning.
- Nov/Dec 2024: DAS best practices.

COMMISSION OVERSIGHT

Issue: Commission oversight in addressing issues within the public defense system.

Objective: Have the Commission exercise oversight on the issues and overall functioning of the public defense system.

Status Update: The Commission had an onboarding retreat in December 2023, which included a presentation from the Sixth Amendment Center on the proper role for commission oversight, as well as a summary of the DAS Best Practices for Boards and Commissions. In January, the Commission created a subcommittee on governance, which was charged with gathering information and making recommendations to the full commission on (1) commission bylaws, (2) the authorization of additional commission subcommittees, and (3) any additional actions that will ensure good governance of the OPDC.

A key focus of the bylaws is to establish the precise role of the Commission in agency oversight, and the current draft of the proposed bylaws provides additional guidance on the roles of the Commission, its voting members, and its non-voting members. The Commission has relied upon the mandates of ORS Chapter 151 in assigning roles. It has also relied on best practices and practices of other boards and commissions to provide additional guidance.

In addition, the Commission held a two-day meeting in March with significant time dedicated to team building, governance, and setting a foundation for organizational development transition planning, and strategic planning. The Commission received an additional presentation on the DAS best practices for board and commissions governance.

Next Steps: The Commission will adopt bylaws and then move to its work with Moss Adams on organizational development and strategic planning.

Timeline: April 2024: Bylaws adopted.

Spring/Summer 2024: Strategic planning, transition planning, and organizational development.

DECISIVE LEADERSHIP

Issue: Demonstrate decisive leadership and decision-making.

Objective: Establish OPDC as the trusted subject matter experts on issues within public defense.

Status Update: The Commission has shown leadership and been proactive on public defense matters over the last quarter. The Commission submitted testimony and provided reliable fiscal analysis to the legislature regarding HB 4002 during the 2024 legislative session. OPDC continues to monitor policies impacting the number of unrepresented persons and took action to extend the Temporary Hourly Increase Program (THIP) to continue to address the unrepresented numbers while the state trial offices are built up. The Commission is also developing a Six-Year Budget Plan to responsibly respond to the mandates of SB 337 (2023).

Next Steps: The Commission will focus its leadership on strategic planning and organizational development, building the agency's proposed budget for the '25-'27 legislative session, adopting a 6-Year Budget Plan, and adopting caseload and workload standards as required by ORS 151.216.

Timeline: Spring/Summer 2024: Strategic planning and organizational development.

March-June 2024: Six-Year Budget Plan and the adoption of caseload and workload standards.

GAP ANALYSIS

Issue: Perform a gap analysis to assess where goals are being met and identify needs (i.e., positions/expertise, IT deficiencies, agency coordination).

Objective: Identify agency needs and opportunities for improvement.

Status Update: OPDC has performed its second gap analysis and will be using the results of that analysis to make requests of the May Emergency Board. These requests focus on staffing and are predominantly IT and Procurement related.

Next Steps: Subsequent gap analysis should be performed quarterly to identify needs and opportunities going forward. Regular assessments are crucial for maintaining a proactive approach to identifying and addressing evolving needs. Gaps identified will be taken to the Commission for approval. Depending on priority, resources to fill the gaps will be requested from special appropriation allocations (SPAs) during the 2024 e-boards, or a plan will be built to address gaps in the 2025-27 budget request and beyond.

Timeline: April 2024: Use gap analysis to create May emergency board asks for approval by the Commission.

May 2024: Request positions at May emergency board.

June-July 2024: Hire gap analysis positions.

August 2024: Perform third gap analysis to identified needs for September emergency board.

September 2024: Commission approves September requests, take requests to emergency board.

September 2024: Request positions at September emergency board.

September-October: Hire gap analysis positions.

UPDATED GOVERNING STATUTES AND POLICY

Issue: Review and update as necessary statutes, policies, and procedures that govern the commission and agency.

Objective: Establish a routine review process so the Commission can ensure modern and appropriate governing statutes and policies.

Status Update: The Commission's efforts to adopt bylaws has led to areas where Commission members and staff believe additional clarity could be added to ORS Chapter 151. Additionally, statutory gaps have been identified as part of the rollout of the OPDC Trial Division offices. In the 2023 legislative session, OPDC was able to remedy one specific statutory gap by advocating for legislation that allowed the agency to establish client trust accounts.

Next Steps: Once bylaws are adopted, continue to monitor their effectiveness. Produce list of needed statutory changes and divide list into changes with a fiscal impact and those without a fiscal impact.

Timeline: April 2024: Adopt bylaws.

April-July: Continue to monitor bylaws effectiveness and SB 337 implementation.

July-September: Work with Legislature on potential changes to ORS Ch. 151.

STANDARD FINANCIAL PRACTICES

Issue: Adhere to standard budgeting, financial management, and accounting practices.

Objective: Ensure OPDC is adhering to agency standardization on budgeting, financial, and accounting matters.

Status Update: OPDC has just been notified that it again qualifies for the Gold Star Award for FY 2023. Currently OPDC is adhering to all standard budget, financial management and accounting practices. OPDC is not without issues, as of April 1, 2024 the accountant who handles all the agency budget and accounting is on extended leave without a clear return to work date. The backup to the accountant is also on extended leave until May 9, 2024. The agency is currently without a clear resource for doing the accounting for the agency. This has not impaired the ability to pay operating bills and OPDC has not missed any payments to providers or vendors.

Next Steps: OPDC has been approved for additional accounting resources scheduled to start July 1, 2024. The agency has taken steps to hire in advance of this funding and pay for the early services with administrative agency savings. The agency has posted a recruitment and is also working with DAS to get accounting assistance with items that it cannot handle and with finding additional resources if they become available.

Timeline: OPDC hopes to have staffing online within the next few months (June 2024).

STANDARD HUMAN RESOURCE PRACTICES

Issue: Adhere to hiring and human resource (HR) management professional standards, including competitive recruitments, up-to-date job descriptions, and performance reviews.

Objective: Ensure OPDC is adhering to agency standardization within human resource management.

Status Update: The organizational chart has been updated and is accurate in Workday. HR is continuing to gather position descriptions from managers, primarily focused on the IT and Trial Division positions as they are agency priorities. HR has made updates to OPDC's recruitment process. HR has continued to review our current policies, performance accountability and feedback expectations with management team.

Next Steps: Update and finalize the organizational chart to align operations with budgeted positions, ensuring that it is also in alignment with the executive branch as needed in preparation for the transition. Review governor expectations of executive branch agencies and focus on implementing those expectations (succession planning, DEI plan, etc.).

Timeline: Nov 2023-Sep 2024: Review and update policies to align to executive branch.

Dec 2023- Mar 2024: Reviewing position descriptions to ensure they correctly align with class/comp standards.

Jan-May 2024: Update organizational charts to align operations with budget and with the executive branch.

Feb 2024-Apr 2024: Develop employee onboarding process.

Apr 2024-Jun 2024: Employee satisfaction plan.

Apr 2024-Aug 2024: Employee development plan.

Apr 2024-Aug 2024: Employee training plan.

Jun 2024-Aug 2024: Develop/implement performance feedback process.

Jul 2024-Sep 2024: Develop agency succession plan.

Aug 2024-Sep 2024: Review/update of diversity, equity, and inclusion DEI Plan.

STANDARD PROCUREMENT PRACTICES

Issue: Adhere to state government procurement practices, including competitive contracting processes.

Objective: Ensure conformity with state government procurement standards.

Status Update: Procurement, along with IT, is the biggest areas of change for OPDC. The agency has been exempted from procurement statutes since its inception. This has led to OPDC contracts being administered by program analysts, who are also serving as program administrators. The result is that the same people who are technically responsible for contract administration are the same people who are tasked with supporting providers in their contracts. Moreover, this is a process where numerous amendments are made to contracts monthly to accommodate provider workload changes, changes in qualifications, and to address provider staffing issues. This is an inherent conflict of interest, as procurement and contract management should be separate from the administration of program functions and oversight. Due to the large volume of procurement work being generated on a regular basis, analysts are unable to provide the oversight needed to properly monitor the program and evaluate performance.

As the agency has evolved, the lines of responsibility have been blurred and the division of labor, expertise and decision making is compromised. Procurement staff are responsible for compliance with procurement law, posting procurements and managing the procurement process, while program analysts perform the contract administration, performance monitoring, program development to include the establishment of policies and process. Due to the current workload, analysts have had to prioritize the contract work while setting aside the evaluation of the program outcomes to determine success. This dynamic is placing the agency at risk as the analysts are not focused on developing the programmatic needs of the agency as it grows from a pass-through agency to one that will not only contract with providers but one that also provide direct services. This current process is cumbersome and creates a tremendous liability for the Commission when trying to report to the Legislature and account for caseloads and funding.

Next Steps: OPDC recognizes the need to develop a procurement team with DAS required training prior to the transition. In February 2024 OPDC requested three procurement positions, none of which were funded. OPDC intends to make another request for these positions during the May Emergency Board meeting.

OPDC is currently working with DOJ to develop provider contracts for the 2025-2027 biennium contract cycle to ensure compliance with state contracting standards and requirements. The new contracts will separate contractual language and deliverables from program elements and instead refer to established commission policies and procedures. The program analyst will refocus and help standup the new programmatic needs of the agency, while working with the CAP unit to help develop and enhance measures for performance monitoring.

Timeline: **May 2024:** Request procurement positions.

April 2024-July 2025: Work with DOJ to develop 25-27 provider contracts.

April 2023-Sep 2024: Update and write policies to align with exec branch.

Jul 2024-Dec 2024: Procurement training and certifications.

Jul 2024-Dec 2024: Oregon Buys - staff access/training.

IMPROVED AGENCY CULTURE

Issue: Improve agency culture and morale to become an employer of choice.

Objective: Improve employee morale and become an employer of choice.

Status Update: OPDC's management/leadership team has been participating in Ascent, a foundational management training through DAS. OPDC has also been putting out monthly all staff newsletters to improve internal communications.

Next Steps: Engage with DAS to contract with Gallup to conduct an OPDC employee satisfaction survey. Will work with managers to develop professional development opportunities for staff.

Timeline: Feb 2024-Apr 2024: Develop employee onboarding process.

Apr 2024-Jun 2024: Employee satisfaction plan.

Apr 2024-Aug 2024: Employee development plan.

Apr 2024-Aug 2024: Employee training plan.

Jun 2024-Aug 2024: Develop/implement performance feedback process.

Jul 2024-Sep 2024: Develop agency succession plan.

Aug 2024-Sep 2024: Review/update of diversity, equity, and inclusion DEI Plan.

EFFICIENT AND EFFECTIVE PROGRAMING

Issue: Ensure programs and activities are coordinated and operate efficiently and effectively.

Objective: Improve communication and coordination among agency divisions and staff to ensure that programs and activities are efficient and effective.

Status Update: Communication and coordination has improved in some areas of the agency. OPDC hired a Communications Specialist to increase communication across the agency, and he has assisted in coordinating communication both internally and externally. Here are some examples of improved coordination: Accounts Payable faced a backlog the Communications Specialist worked with AP and Finance and IT to get out a weekly status update email to providers about the work being done and the delays. Additionally, the Data team has taken a big role in coordination of the unrepresented numbers, reviewing the process and finding ways to automate systems. This program is about to be piloted in three counties to improve efficiencies. FCMS has been using Asana project management tools to coordinate better, and the rest of the agency is using Microsoft tools to better collaborate, including a more organized SharePoint so documents are easily found.

Next Steps: Next steps will include strategic planning, and additional work on roles and responsibilities. Some division of OPDC continue to lack clear roles and responsibilities which continues to cause duplicative or unfocused work. Implementing the quality management plan will be an important step.

Timeline: Nov 2023-April 2024: Update organizational charts.

Mar 2024-July 2024: Strategic Planning.

Nov 2024-Jan 2025: Organization Staffing & Structure Assessment.

IMPLEMENT F/CMS

Issue: Procure and implement a financial case management system that will allow for more efficient financial processing and collection of statewide data relating to caseloads and case related activities.

Objective: Create an integrated financial case management system that improves data collection and analysis and allows for effective case and financial management.

Status Update: The agency resumed the Financial/Case Management System (F/CMS) project in February 2024, after a brief hold from November 2023 to January 2024. They collaborated with the Department of Administrative Services Enterprise Information Services (DAS EIS) to secure experienced contracted resources and develop a plan to minimize delays. Project management resources were secured on February 12th, and significant progress has been made in preparing project documents, conducting RFP requirement reviews, and establishing stakeholder committees.

Communication efforts have been intensified with regular status reports and meetings. The project's risk level is decreasing with the hiring of a new CIO and the implementation of strategies to address impediments. Efforts are underway to secure additional tech and business analyst resources for the implementation phase. A detailed project schedule with over 400 tasks has been identified and is undergoing review, with final approval expected in April. An interim schedule is being utilized to comply with EIS requirements, with the understanding that it may change once the vendor is onboarded.

The Commission is dedicated to the success of the project, recognizing the necessity to update data and information systems to meet legislative mandates outlined in SB 337, SB 5532, and SB 5506. With outdated systems facing limited support from software companies, the Commission has partnered with the state's Chief Information Officer and appointed a new CIO, David Martin, along with hiring project managers and seeking business analysis resources. Efforts to revise project schedules are underway to ensure success. The project's momentum is increasing, evidenced by improved project health ratings and resumed procurement activities. Although requirements are defined, they will be revisited before releasing requests to potential vendors for a suitable solution. Key legislative changes, including OPDC's integration into the Executive Branch, could indirectly affect project resources.

Next Project Steps:

RFP Requirements work sessions in place through Mid-April to align and finish requirement work for the RFP and close open items that were missing from the RFP as noted last November. Business Case, Project Charter and Schedule all slated to be reviewed and finalized in March to plan for submission to EIS Stage Gate. Procurement resource is also being solidified and will be met with these coming weeks to align on the project. Primary focus is on the successful release of the RFP to vendors to move through the Procurement for the selection of the F/CMS system.

Timeline:

March and April are designated for RFP requirement review and closure of open items that were missing from the RFP last November. Continuation of 30/60/90-day deliverables are also being monitored with plans to deliver by May 12, 2024. Extensive tasks in our new Work Breakdown Schedule in Asana can be viewed in Asana F/CMS project schedule with over 400+ detailed tasks to complete planned out through a targeted implementation of December 2024 with follow up activities to close the project scheduled through June 2025. Final schedule being worked on for approvals in April in the interim prior to vendor onboarding to align on major movement forward for the project.

DATA INFORMED DECISION-MAKING

Issue: Use data related to forecasting, procurement, budgeting, quality control, and performance management in a manner that allows quantitative decision-making.

Objective: Engage in rigorous quantitative decision-making process for activities related to forecasting, procurement, budgeting, quality control, and performance management.

Status Update: Management agreement that all data related to forecasting, procurement, budgeting, quality control, performance management is obtained by formal request to the data team. Continue with contract for consultation with data elements using Power Bi. Creation of internal dashboards to assist with the continued need for data requests and to address areas of concern in our data collection. Ongoing cross-sectional work with the TS&D Program Analysts and Data and Research team to address areas of attention in caseload reporting data, continued training on utilization of internal dashboards.

Next Steps: Continue on-going cross-sectional meetings with IT, Trial Support and Development, budgeting, government relations. Execute expanded data share / data warehouse agreement with OJD.

Timeline: On going

ACCURATE AND TIMELY VENDOR PAYMENTS

Issue: Vendor payments need to be accurate and timely to meet state standards.

Objective: Ensure conformity with state government timely payment policy.

Status Update: Accounts Payable unit and the Preauthorized Expense units are both experiencing backlogs. Accounts Payable is working on bill that are approximately 40 days out and the Preauthorized Expense unit is experiencing a similar time delay in approving services. This is a result of a number of issues: the increase in workload and the complexity of information as a result of the many changes that have been made to provide representation to unrepresented persons. The process for approving service requests and for paying providers is archaic and manually labor intensive, making multiple changes to these processes takes time to full appreciate. Making numerous changes in rapid succession compounds the problem. The many changes over the last year in addition to attorney capacity that has been added without a subsequent add of back-office support is also another contributing factor of the increased backlog. Finally, the pace at which employees are continuing to work is starting to create stress points in the system. The pace and the material that is viewed are having a psychological and physical impact on the staff.

Next Steps: The agency has added additional temporary staff to the Preauthorized Expense unit. This includes hiring a temporary employee in advance of a position that is scheduled to come online in July 2024. This also includes adding two contract temporary employees to help work on the intake of requests. Accounts Payable has move to a paperless process which when normalized should provide increased efficiency but will take time. Accounts Payable staff continues to spend more time educating vendors about the changes in rates, many vendors were not award of the inflationary increases that occurred are no using the increased rates, this will be addressed in the next Office Hours meeting that will discuss Preauthorized Expenses.

Timeline: The Preauthorized Expense unit looks to make significant ground in the coming weeks with a May 1, 2024, goal of being 80 percent through the backlog. Accounts Payable would like to reduce their time by five days and be close to the 35 days out number by May 1, 2024. Both units are expected to meet their goals but are currently experiencing unexpected leave of absence issues, sick time and normally scheduled vacation.

STRATEGIC PLAN

Issue: Develop and adopt a mission driven strategic plan centering on improved oversight and management of public defense in Oregon focused on persons eligible for public defense services.

Objective: Establish a strategic plan the Commission can base decision making and planning around.

Status Update: OPDC has contracted with Moss Adams to develop a new strategic plan to guide the Agency's major activities for the next five years. The development of the strategic plan will be done in conjunction with agency executive branch transition planning and operational changes. The plan will clearly identify organizational goals and objectives that align with the executive branch expectations laid out by the Governor's [January 11, 2023](#) letter.

- Develop a comprehensive project plan to address the full scope of work and outline roles and responsibilities for the project.
- Conduct an environmental scan of OPDC through interviews, document review, and focus groups with key collaborators.
- Facilitate strategic planning work sessions. Working with key partners, create and refine the plan's elements including strategic goals, objectives, activities, and performance measures.
- Draft a strategic plan for review by OPDC leadership and Commission members. Alongside the strategic plan, develop a draft implementation and reporting plan to keep key partners informed.
- Produce the final strategic plan including the implementation plan with milestones and benchmarks that OPDC can use to manage activities and measure progress.

Timeline: March-April: Project kickoff, agency staff input, commission input, and analysis

May-June: Management work sessions, draft (mission, vision, values, goals), and all staff survey

June-July: Draft strategic plan, staff and commission review of plan, final strategic plan.

INTERNAL QUALITY CONTROL AND AUDITS

Issue: Develop processes for internal quality control reviews and auditing capabilities.

Objective: Conduct rigorous internal quality control assessments based on meaningful measures of performance.

Status Update: The Internal Audit function, apart from the Compliance, Audit and Performance (CAP) program, has leveraged the existing Risk Assessment, feedback from the Legislative Subcommittee (from February 8, 2024) and follow-up discussions with management to build a 3-year Internal Audit Plan (consistent with the Audit Committee charter). Successful execution of this plan will depend, in part, on the agency's collective support of Internal Audit's recently adopted Strategic Goals and Objectives. The scope of the Goals and Objectives defines goals and objectives across four operational perspectives, similar to a Balanced Score Card approach, to ensure a broad organizational reach. Apart from the Goals and Objectives, the 3-year Audit Plan remains relevant through completion of annual Risk Assessments, monthly meetings with management (and applicable stakeholders), trade group trainings, peer agency discussion forums, Regional and National news publications and insights gained from on-going audit activity. When new risks are identified, Internal Audit will collaborate with OPDC management and the Audit Committee to ensure oversight of the identified risk and potentially reprioritize future audits to support the related needs of the agency ahead of the next annually planned risk assessment.

Next Steps: The Audit Committee met on April 1, 2024, and approved the 3-year Audit Plan as well as the Strategic Goals and Objectives for Internal Audit. Implementation of both plans are currently underway and the initial status of each will be reported during the next reporting cycle.

Timeline: The status of the two efforts (Auditing and Strategic) will be discussed during each month's administrative meetings with OPDC management and each quarter with the Audit Committee. Applicable discussions will review progress to date, any emerging trends or insights (especially if needing a response) as well as any access, training or resource limitations.

DEVELOP INTERNAL DATA ANALYTICS

Issue: Implement internal data analytics capability beyond reporting to include research and complex data analysis.

Objective: Create a data collection program that includes reporting, research, and complex data analysis.

Status Update: OPDC in partnership with DAS, OJD working collectively on forecasting model. This will assist OPDC with 25-27 budget development along with review and collaboration of existing data elements and tools across agencies.

Next Steps: Continue the above working relations. Increase data team knowledge of additional data elements. Work with existing data analysis tools

Timeline: January 2024 – December 2024

DATA SECURITY AND INDEPENDENCE

Issue: Evaluate current data security and independence.

Objective: Ensure public defense data is secure and appropriately firewalled.

Status Update: High level discussions and planning has begun with EIS, Data Center Services (DCS), and Microsoft. Essential OPDC IT Staff are in the interview process.

Next Steps: Tactical planning will begin once IT staff are hired. It is estimated the hiring of the M365 and Server Administrator will be completed in 2-4 weeks. DCS Teams such as Cloud Computing, Windows Server, M365, and LAN/WAN Networking continue.

Timeline: April 2024-July 2024: First round IT transition work (M365, web services, desktop and mobile support, Nintex, and triage).

July 2024-Oct 2024: Second round IT transition work (based on 2nd gap analysis).

Nov 2024-Oct 2024: Testing/finalizing/transferring work between OJD and Executive.

April 2025-June 2025: Final testing/finalizing/transferring.

July 2025: IT contract with OJD ends, IT provided by OPDC and DAS.

IT STRUCTURE

Issue: Evaluate the current IT structure and identify needs.

Objective: Ensure OPDC's Information Technology Section has the capability to fully support the agency.

Status Update: The recommendation of 1,4,5 is completed or in process. New IT Staff are either actively moving through the interview process or being recruited. A comprehensive assessment will be completed through the remediation process of shifting all technology from OJD to OPDC via State Data Center services and support.

Next Steps: While two OPDC IT positions are in process for hire, two additional positions are beginning the recruitment process. Stabilizing agency IT SME in strategic areas of competency is essential before initiating a comprehensive assessment with DCS.

Timeline: April 2024-July 2024: First round IT transition work (M365, web services, desktop and mobile support, Nintex, and triage).

May 2024-Dec 2024: State Data Center LAN/WAN Network Build-out.

May 2024-Feb 2025: M365 and Server Virtualization Environment Transitioned.

July 2024-Dec 2024: Second round IT transition work (based on 2nd gap analysis).

Nov 2024-Feb 2025: Testing/finalizing/transferring work between OJD and Executive.

Feb 2025-June 2025: Final testing/finalizing/transferring.

July 2025: IT contract with OJD ends, IT provided by OPDC and DAS.

CAP: DEVELOP CAP PROGRAM

Issue: Develop a Compliance, Audit, and Performance program plan that can independently monitor, measure, and report on the quality of public defense being provided by OPDC.

Objective: Create a CAP division that provides honest analysis and assessment of the public defense system and agency operations to the Commission and the executive director.

Status Update: The CAP division is organized into the following sections: (1) Administration; (2) Trial Criminal Compliance; (3) Juvenile/Parent Child Representation Program (PCRCP) Compliance; (4) Research, and (5) Internal Audit, which reports directly to the Commission. Within these sections is the CAP Manager and policy writers in Administration; Trial Resource Counsel within Criminal and Juvenile/PCRCP Compliance; data analysts within Research, and two internal auditors within Internal Audit. Functionally, four program analyst from the Administrative Division of OPDC work with the Resource Counsel of both Adult and Juvenile/PCRCP to support providers in their contracts. This team of Resource Counsel and Program Analyst are called the Trial Support and Development team (TS&D). This team, along with the Data Team (Research) and the Policy Team (Administration) are working to build and carry out the functions of CAP.

Next Steps: TS&D will work on building performance standards, TS&D and Data will work on building metrics to measure and track those standards, Policy will build policy around enforcement of the standards, and TS&D will develop training standards to provide remediation should attorneys not meet those standards.

Timeline: Feb-Aug 2024: Qualification and performance standards for all core roles in Oregon's public defense system for which OPDC provides funding.

May-Dec 2024: Policy and quality control procedures built to enforce/audit performance measure.

Sept-Dec 2024: Metrics for evaluating the performance of individuals in these core roles as well as overall system functioning statewide and in each jurisdiction.

Jan-April 2025: Development of training standards and programs designed to support public defense providers in meeting qualification standards and performance standards applicable to their particular area(s) of practice.

Ongoing: Regular review of all qualification and performance standards, metrics systems and structures to identify areas in need of improvement and updates.

CAP: PERFORMANCE STANDARDS

Issue: Develop standards for public defense providers that are based on national best practices and take into consideration meaningful measurement of representation quality and performance.

Objective: Clear standards for public defense providers in Oregon.

Status Update: Establish a comprehensive plan for developing and maintaining performance measures which will ensure that all recipients of public defense services in Oregon receive constitutionally competent and effective legal representation. Establishing these measures follows this basic logic: What is OPDC measuring? (Standards) How are those standards measured? (Metrics) What happens when standards aren't met? (Training).

Next Steps: CAP will implement the Quality Management Plan and establish standards for public defense providers in Oregon.

Timeline: Feb-Aug 2024: Qualification and performance standards for all core roles in Oregon's public defense system for which OPDC provides funding.

Sept-Dec 2024: Metrics for evaluating the performance of individuals in these core roles as well as overall system functioning statewide and in each jurisdiction.

Jan-April 2025: Development of training standards and programs designed to support public defense providers in meeting qualification standards and performance standards applicable to their particular area(s) of practice.

Ongoing: Regular review of all qualification and performance standards, metrics systems and structures to identify areas in need of improvement and updates.

CAP: AUDITS AND QUALITY CONTROL

Issue: Develop processes for external quality control reviews and auditing capabilities.

Objective: Conduct rigorous external quality control assessments based on meaningful measures of performance.

Status Update: To implement quality control and expenditure audits, OPDC first must establish performance metrics. Without metrics CAP will not know what to control for or audit. The CAP division is not at this stage yet, but OPDC fully recognizes the importance of both vendor compliance through quality control and expenditure audits of both vendor contracts and agency expenses. Below is a summary of the goals of these areas.

Next Steps: Determine the scope of work, to determine staffing needs to 25-25 biennium and create 25-27 POP's for the work and staffing needs.

Timeline: June-Dec 2024

CAP: COMPLIANCE MEASURES

Issue: Employ processes to enforce quality control measures and provide remediation to those below standards, including training and policy review.

Objective: Once performance standards are in place, CAP will ensure compliance with those standards and opportunities for improvement when those standards are not met.

Status Update: Current compliance measures are limited. Contractors are required to submit monthly case reports, which the Data and Research Team review for quality control/quality assurance. However these reports are just case counts, and not more in depth quality control measure OPDC will implement in the future.

Next Steps: OPDC will ensure all vendors follow their contracts by setting up a quality control system that monitors vendor compliance and flags vendors who are out of compliance. Through this quality control system, OPDC can effectively implement vendor contract compliance measures to ensure accountability, transparency, and quality service delivery in line with its mission and objectives.

Once performance standards are in place, CAP will ensure compliance with standards and opportunities for improvement when standards are not met.

Timeline: June 2024 – December 2024

ACCOUNTABILITY TO LEGISLATURE

Issue: Demonstrate accountability for taxpayer money by adhering to a legislatively approved budget and following legislative direction.

Objective: Rebuild legislative trust in the agency by adhering to legislative direction and budget authority.

Status Update:

Legislative Direction

OPDC has submitted all legislative reports on time as of May 2024 Legislative Days. OPDC is in the process of implementing SB 337 and believes it is on track to meet the milestones on the bill.

OPDC has created and published a meeting calendar with the goal of better aligning Commission meetings with legislative days and budget building. This will allow the Commission to give more meaningful input and direction of legislative reports and budget requests. OPDC has also established a Legislative Subcommittee that will be responsible for reviewing legislative reports and making recommendations to the full committee. This will increase the Commission members oversight and input into the legislative reports.

Legislative Budget

OPDC is following the Legislatively Adopted Budget. OPDC worked well with LFO during the 2024 short session especially around HB 4002 to build a fiscal.

OPDC submitted and was granted an agency wide rebalance which clearly showed the cost within Adult Trial Division, Juvenile Trial Division, and PCRCP.

OPDC created a ROC for all provider contracts which clearly delineates what is being paid for in each contract. Contract terms are posted to the OPDC website.

Next Steps:

Legislative Direction

Providing an organizational chart is an important legislative direction OPDC has yet to fulfill. While draft charts have been shared, OPDC has yet to submit an organizational chart that meets legislative approval. OPDC continues to work on this with LFO and expects to have one by September legislative days.

OPDC continues to work on SB 337 implementation. The Commission submitted a Comprehensive Public Defense Report to the Committees on Judiciary which goes into further details about that implementation.

Legislative Budget

OPDC is working to improve its ability to provide fiscals on bills. OPDC submitted many 'indeterminate' fiscals during the 2024 session, and our goal is to reduce the number of 'indeterminate' fiscals in the future. OPDC will work with LFO on the best way to go about pricing legislation that creates new crimes when the agency doesn't have the ability to estimate potential arrests.

Timeline: April-May 2024: Finalize OPDC Org Chart.

May 2024: Submit required reports.

April-June 2024: Finalize OPDC CSL.

August 2024: Build 25-27 Policy Option Packages.

September 2024: Submit required reports.

December 2024: Submit required reports.

BUILD & REPAIR RELATIONSHIPS

Issue: Build and repair relationships and break down silos with public safety partners, stakeholders, and other state agencies.

Objective: Become a trusted partner on public defense matters.

Status Update: OPDC hired a Communication Specialist to help facilitate communications which is key to building relationships. OPDC is now putting out a monthly newsletter, along with a post commission meeting newsletter summarizing actions taken. The communication specialist also sends out ad-hoc notices as needed, like the weekly PAE backlog updates.

OPDC is also doing more stakeholder engagement. The agency has expanded its monthly 'office hours' to address other areas within the agency. i.e.: CSS, Accounts Payable, Government Relations and other topics of interest from our providers. We are also holding a working session for providers to give feedback on standards for core staff positions.

OPDC is also hosting an open house for stakeholder to come meet and learn about the new trial offices.

Next Steps: Continue with regular newsletters and action alerts. Expand stakeholder engagement and ensure stakeholder processes are embedded in agency work.

Timeline: Ongoing

ACCOUNTABLE COMPLAINT PROCESS

Issue: Create a standard, transparent and accountable complaint process.

Objective: Ensure all complaints are treated in a standard and transparent way.

Status Update: The agency receives two broad types of complaints: complaints about public defense providers and complaints about the agency itself.

The agency has long had a complaint policy regarding attorneys, although the responses to these complaints vary and are not well documented. Currently, agency staff has been assigned to update this policy, improve the consistency of its application, and better document issues associated with the complaints.

The agency has not had a consistent response to complaints about the agency itself, and this has been a topic for the Subcommittee on Governance in its development of agency bylaws. Currently, there is a section dedicated to the agency's response to these complaints that assigns differing tasks to agency staff and to the Commission, depending upon the status and nature of the complaint.

Next Steps: Continue work to update complaint policies and procedures for public defense providers. Adopt bylaws.

Timeline: April 2024: Adopt bylaws.

Spring/Summer 2024: Develop complaint policy and procedures.

PREVIOUS REPORTS

Remediation Plan Outline:

Submitted August 21, 2023

Heard September 28, 2023

[276904 \(oregonlegislature.gov\)](https://oregonlegislature.gov/bills_laws/2023/276904)

Remediation Plan I:

Submitted October 13, 2024

Heard November 7, 2024

[277546 \(oregonlegislature.gov\)](https://oregonlegislature.gov/bills_laws/2024/277546)

Remediation Plan II:

Submitted January 16, 2024

Heard February 8, 2024

[280579 \(oregonlegislature.gov\)](https://oregonlegislature.gov/bills_laws/2024/280579)



Date: April 17, 2024

To: Jennifer Nash, Chair of PDSC
OPDC Commissioners

Cc: Jessica Kampfe, Executive Director

From: Lisa Taylor, Government Relations Manager

Re: Discussion of Comprehensive Public Defense Report

Nature of Presentation: Briefing

Background: SB 337 directs OPDC to submit a report by May 15, 2024 on the Commission’s plan for providing public defense services in this state. This report will be submitted yearly through 2027, and then biennially through 2035. In order to get feedback from the Commission, a draft version of this report is being brought forward in the April Commission meeting for discussion. A final report will be brought to the Commission at the May 8th meeting for final approval. This report will be submitted to the Senate and House Committees on Judiciary by May 15, 2024.

Agency Recommendation: The Agency recommends that the Commission discuss the report and provide feedback and direction to the agency.

Fiscal Impact: None

Agency Proposed Motion: None

Oregon Public Defense Commission

COMPREHENSIVE PUBLIC DEFENSE REPORT

Version I
April 08, 2024

NATURE OF THE REPORT

Section 98 of SB 337 (2023) states:

SECTION 98. (1) No later than May 15, 2024, the Oregon Public Defense Commission shall provide a comprehensive report on the Commission's plan for providing public defense services in this state to the interim committees of the Legislative Assembly related to the judiciary, in the manner described in ORS 192.245, that includes at least the following information:

- (a) Financial projections for the commission based on anticipated workload;
- (b) A description of the commission's proposed method for providing public defense services based on anticipated workload;
- (c) The establishment of training and supervision requirements for public defense providers;
- (d) Steps taken to determine a reasonable hourly rate for appointed counsel who are not employees of the commission or nonprofit public defense organizations that accounts for overhead expenses; and
- (e) Steps taken to improve oversight and enforcement of statewide objective standards for the provision of public defense.

(2) No later than December 1, 2025, and no later than December 1, 2026, the commission shall provide the interim committees of the Legislative Assembly related to the judiciary with an updated version of the report described in subsection (1) of this section

(3) Beginning no later than December 1, 2027, and biennially thereafter until December 1, 2035, the commission shall provide the interim committees of the Legislative Assembly related to the judiciary with an updated version of the report described in subsection (1) of this section.

SECTION 99. Section 98 of this 2023 Act is repealed on January 2, 2036.

~~This is the first iteration of this report and was approved by the Oregon Public Defense Commission members at their May 8, 2024 Commission meeting.~~

THIS IS A DRAFT OF THE REPORT FOR THE APRIL 17 COMMISSION MEETING FOR REVIEW AND COMMENT.

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EXECUTIVE SUMMARY

SB 337 (2023) provides a framework, milestones, and goals for the agency and public defense in Oregon; however, it does not provide step-by-step instructions for providing public defense. The legislature legislates, it is up to the agency to create rules, policies, and procedures to implement legislation. This is the first of a yearly report on OPDC's plan to provide comprehensive public defense services in Oregon and a roadmap of how the agency plans to carry out directives outlined in SB 337 (2023).

There are three work streams to inform the plan for providing public defense in Oregon. This information provides OPDC the number of cases (Office of Economic Analysis Forecast) and cost (Economic Study) of the attorneys OPDC will need to provide full representation in Oregon.

Once these factors are determined, the Commission will project financial needs based on workload. This calculation will inform decisions regarding the number of additional attorneys required to meet workload demands, utilizing a deficiency analysis similar to the Oregon Project methodology. The Six-Year Plan provides the timeline and implementation strategy to meet that need.

The transformation of public defense in Oregon aims for equity, effectiveness, and efficiency, ensuring public defenders can fulfill their constitutional duties. Previously, contracts were based on the number of cases closed without considering individual attorney caseloads or procurement costs. Recently, a shift to a full-time equivalent (FTE) model and Maximum Attorney Caseload (MAC) standards has occurred. SB 337 (2023) and HB 2023 (2021) directs the adoption of workload standards compliant with best practices.

State employees are being introduced into trial-level public defense for the first time. Three regional trial division offices have opened, with the goal state-employed attorneys representing 30% of all appointed counsel by 2035.

Non-profit public defenders, currently contracted by OPDC, operate independently but receive training and supervision funding. OPDC plans to update workload standards for non-profits.

Panel attorneys, accepting appointments on an hourly basis, will be formalized into a structured panel by July 2025. OPDC will manage case assignments, support, supervision, and training for panel attorneys, requiring additional staffing and resources. Panel attorneys will have to apply for membership, demonstrating qualifications and capacity to serve multiple judicial districts if needed. This expansion will increase the reliance on the Pre-Authorized Expense (PAE) system and require more administrative support.

OPDC oversees public defense delivery through its Compliance Audit and Performance (CAP) division, which includes sections for trial criminal compliance, juvenile/parent child representation program (PCR) compliance, research, and internal audit. The Trial Support and Development (TS&D) team within CAP sets qualification standards for attorneys and plans to expand these standards to cover all core roles involved in public defense. Future qualification standards will be tailored to match the skills required for different case types and include recertification requirements.

OPDC's oversight capacity currently relies on reactive tasks like reviewing court records and investigating complaints. To improve oversight, OPDC plans to develop proactive, data-informed schemes using key performance metrics (KPMs) derived from a financial case management system and system partner data sources. Additionally, routine on-site monitoring will be implemented.

Supervision plans will be tailored to each public defense delivery model, with the TS&D team leading the development and implementation. Panel attorneys will be supervised by local advocacy counsel, and state-employee offices will be supervised internally with oversight from TS&D. Non-profit public defenders, as independent contractors, will have oversight and supervision authority over their employees, with OPDC establishing minimum requirements for oversight.

OPDC will develop training programs, including asynchronous virtual trainings, small in-person trainings, and combined asynchronous and synchronous trainings, to develop the skills of appointed attorneys and address retention issues. Training will focus on unique aspects of Oregon practice, such as felony sentencing rules, and provide opportunities for career advancement. Trainings will also include topics like fostering leadership skills and addressing local issues.

Finally, OPDC has contracted with Moss Adams to develop a Six-Year Plan to Reduce Representation Deficiency, aiming to eliminate excessive workloads for public defenders by 2031 through a people and budget strategy and a policy strategy. The plan aims to ensure reasonable workloads, optimize costs, and enable public defenders to fulfill their ethical and constitutional duties.

SENATE BILL 337 (2023 LEGISLATIVE SESSION)

SB 337 (2023) is the product of a more than year long process with a workgroup comprised of representatives of all three branches of government ('Tri-Branch Workgroup'). The bill was introduced and passed during the 2023 legislative session.

SB 337 (2023) does three main things:

- Changes the makeup and appointment process for the Commission.
- Moves the Commission to the executive branch of government.
- Changes the delivery model of public defense.
 - By July 1, 2027, public defenses in Oregon will be provided by state employees, employees at a non-profit, or paid hourly as part of panel of qualified counsel.

The bill also lays out a timeline of Commission milestones. This timeline was developed specifically to provide sufficient time to transition to a new public defense delivery model. It also provides multiple opportunities for the Commission to return to the Legislature and request timeline extensions, policy changes, or additional supports.

Transition Timeline:

January 1, 2024

- Commission makeup changes: initially appointments by Chief Justice with recommendations required from executive and legislative branches; later appointment by Governor, and recommendations by judicial and legislative branches.
- Commission must start collecting data from all contracted parties.
- Department of Administrative Services public defense population forecasting begins.

January 1, 2025

- Commission moves from judicial branch to the executive branch.
- Commission members are appointed by the Governor.
- Executive Director appointed by the Governor and subject to Senate confirmation.

July 1, 2025

- Flat fee contracting prohibited, required to establish panel counsel.
- Commission must have established hourly pay formula for panel attorneys.

July 1, 2027

- Subcontracting no longer permitted (exception for nonprofits).
- Executive Director serves at the pleasure of the voting commission members, no longer requires senate confirmation.

January 1, 2031

- At least 20% of trial level counsel must be commission employees.

January 1, 2035

- At least 30% of trial level counsel must be commission employees.

The full text of SB 337 can be found [here](#).

FINANCIAL PROJECTIONS BASED ON WORKLOAD

To build financial projections for the commission based on anticipated workload three factors need to be known:

- How many cases are projected?
- How many hours will be spent per case?
- What is the hourly rate of that case?

How the commission will determine the three factors along with a breakdown of how these factors will come together to create the commission's financial projections is discussed below. Two of the three factors, the caseload forecast and the hourly rate, are in final development and are not currently available. These will be discussed at the May commission meeting and this report will be updated to reflect those numbers.

CASELOAD FORECAST

SB 337 (2023) requires the Oregon Department of Administrative Services, Office of Economic Analysis (OEA) to issue a state public defense population forecast including, but not limited to, expected populations of adults and juveniles eligible for appointed counsel. The state public defense population forecasts are to be released annually on April 15th and October 15th of each year.

OPDC signed an interagency agreement with OEA in late 2023 for this work. OPDC, OEA, and the Oregon Judicial Department met on several occasions to review existing forecast methodology, data inputs and how the forecast feeds into contracting and budgeting. OEA anticipates releasing preliminary data to OPDC no later than April 10th with the public release of the forecast being announced on April 15th.

HOURS PER CASE

The American Bar Association Standing Committee on Legal Aid and Indigent Defense (ABA SCLAID) and the Seattle-based accounting and consulting firm Moss Adams LLP collaboratively conducted the Oregon Project, An Analysis of Public Defense Attorney Workloads¹. Published in January 2022, the Oregon Project includes an analysis of historical public defense caseloads and staffing, as well as a Delphi process, which resulted in attorney workload standards.

The Delphi Method, used by Moss Adams in making its determinations, is a reliable and structured research method developed by the Rand Corporation in the 1960s. It has been employed across a diverse array of industries, including the legal system, to produce professional consensus opinions, as well as past ABA SCLAID reports.

In the Oregon Project, as in prior ABA SCLAID workload studies, the Delphi method was used to provide a reliable consensus of professional judgment on the time that should be required for a public defense attorney in Oregon to provide reasonably effective assistance of counsel pursuant to prevailing

¹ [The Oregon Project: An Analysis of the Oregon Public Defense System and Attorney Workload Standards \(americanbar.org\)](https://americanbar.org/publications/reports/2022/01/01/the-oregon-project-an-analysis-of-the-oregon-public-defense-system-and-attorney-workload-standards/)

professional norms. The Delphi process used in Oregon relied upon the expertise of attorneys from various types of contractors, as well private practice attorneys to develop a reliable consensus based on professional judgment of the amount of time that attorneys should expect to spend on a particular Case Task in particular Case Types considering both the Strickland standard (reasonably effective assistance of counsel) and the applicable ethical and substantive professional standards discussed earlier in this report (prevailing professional norms).

The full Oregon Study, including detailed analysis of its methodology, is appended to this report. In summary, the Oregon Study provides OPDC with a solid understanding of how many hours should be spent on a case depending on the case type and severity. These hours are broken down to the expected time, on average, that should be spent on each Case Task. A summary is provided below.

Delphi Panel Results - Adult Criminal	
Case Type	Hours Per Case
Low-Level Misdemeanor	22.26
Complex Misdemeanor	36.98
Low-Level Felony	39.78
Mid-Level Felony	47.73
High-Level Felony	148.95
Homicide and Sex Cases	552.46
Probation Violations	8.33

Delphi Panel Results - Juvenile - Dependency	
Case Type	Hours Per Case
Parent Representation	115.62
Child Representation	117.07

Delphi Panel Results - Juvenile - Termination of Parental Rights	
Case Type	Hours Per Case
Parent Representation	104.92
Child Representation	76.83

Delphi Panel Results - Juvenile - Delinquency	
Case Type	Hours Per Case
Misdemeanor / Other	35.65
Minor Felonies	43.79
Major Felonies	68.50
Waiver/Measure 11 Cases	261.48
Probation Violation / Contempt	14.07

HOURLY RATES

SB 337 (2023) includes a requirement that the Commission conduct a survey and economic analysis to establish a formula for the commission to use to calculate an hourly pay rate, considering overhead expenses, market rates, and regional differences in the cost of living for appointed counsel who are not employees of the Commission or a nonprofit public defense organization.

The intention of the survey and economic analysis is to ensure that the Commission is offering a fair market hourly wage to appointed counsel, investigators, social workers, and other legal support staff. The survey and economic analysis will assist the Commission in setting hourly rates to ensure the ability to provide public defense for indigent defendants in Oregon’s criminal justice system.

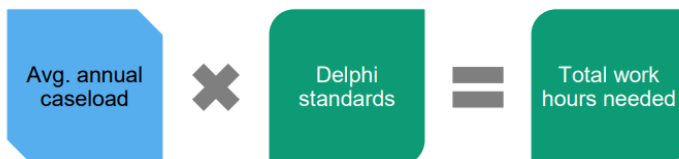
A survey and economic analysis are currently underway, and recommended calculation rate are due to the Commission no later than April 30, 2024. The survey and analysis will take into consideration compensation in private practice, the federal public defense system, and public defense systems in other states; compensation in Oregon district attorney offices and the Oregon Department of Justice; overhead expenses, market rates and regional differences in the cost of living, as well as years of experience and types of cases (most complicated to least complicated).

A formula will be recommended for use in calculating an hourly pay rate for attorneys, investigators, social workers, and other legal support staff based on the results of the survey and economic analysis.

FINACIAL PROJECTIONS

Once these three factors are available, OPDC will be able to combine them to create financial projections based on workload. This calculation will also tell OPDC how many additional attorneys are needed to fully cover the projected workload. A formula like the deficiency analysis done in the Oregon Project will be used.

To perform the deficiency analysis, the projected caseload (OEA forecast) is multiplied by the time needed by Case Type (as determined by the Delphi panels), to produce the hours needed annually to provide reasonably effective assistance of counsel pursuant to prevailing professional norms.



The hours needed can then multiplied by the hourly rate (or rates depending on case type) to calculate the financial projections based on workload.



The hours needed can then be translated into FTE and compared to the number of FTEs currently available to calculate whether an attorney staffing deficit or excess exists and the extent of that deficit or excess.



PUBLIC DEFENSE DELIVERY

The future of public defense in Oregon is one that is more equitable, effective, and efficient for those involved in the criminal justice system. This delivery system will produce reasonable workloads, optimize costs, and most critically, enable the state’s public defenders to fulfill their ethical and constitutionally mandated duty to provide effective defense services.

WORKLOAD VS. CASELOAD

Historically, the OPDC has operated a contract-based service delivery model, in which entities were compensated based upon the number of cases the entity closed. There were no agency metrics and therefore no budgeting considerations given to individual attorney caseloads, individual attorney procurement costs, or the total number of attorneys needed to meet Oregon’s public defense caseload need. There were no caseload standards for individual attorneys or entities, and the agency often did not know which attorneys worked contracts as subcontracting was permitted and attorneys received cases from multiple contracts. If an entity covered more cases than was projected, the agency would pay the entity for the overage; similarly, shortages often required entities to return funding to the agency.

Over the past several years, the service delivery model has been rationalized to account for the metrics above – individual attorney caseloads, individual attorney procurement costs, and the total number of attorneys needed to meet Oregon’s public defense needs. Since January 1, 2021, public defense contracts have been predicated using a full time equivalent (FTE) model, in which an attorney contracts to provide all, or a portion of, their working time to public defense cases. Adult criminal and juvenile contracts are predicated upon an annualized caseload standard, and Parent Child Representation Program (PCRP) contracts utilize an open caseload model.

In the 2022 contracts, OPDC shifted from FTE to “Maximum Attorney Caseload” or “MAC” for standard (non-PCRP) contracts. Instead of contracting based on the number and types of cases an entity would handle over the contract period, OPDC contracted based on the number of attorneys working for the entity, what MAC they would dedicate to appointed casework, and their qualification levels.

A 1.0 FTE attorney is obligating themselves to assume up to the maximum attorney caseload (MAC). MAC is the maximum number of cases an attorney should not exceed over the course of one year and varies according to the types and seriousness of various cases. If an attorney carries a mixed caseload including cases from more than one category, the guidelines should be applied proportionally. Below are the current MAC standards for various provider and case types.

1.0 MAC Maximum Caseload Guidelines

Criminal - (Caseload)	Juvenile - (Caseload)	Statewide - (Caseload)	PCRP - (Workload)
Murder - 6	Murder - 6	PCR/Habeas - 45	Total Open - 80
Jessica Law - 6	Delinquencies - 132	PCR Appeals - 50	
Ballot Measure 11 - 45	Probation Violations - 825	Juvenile Appeals - 32	
Major (A/B) Felonies - 138	Dependency - 69	Civil Commitment Appeals - 60	
Minor (C) Felonies - 165			
Misdemeanors - 300			
Probation Violation - 825			
Civil Commitments - 230			

In January 2019, The Sixth Amendment Center released a report *The Right To Counsel In Oregon: Evaluation Of Trial Level Public Defense Representation Provided Through The Office Of Public Defense Services*² which, among other findings, recommended against flat fee contracting. The legislature, in SB 337 (2023), directed the agency to stop flat fee contracting effective July 1, 2025. Arguably, the existing FTE public defense contracts are not flat-fee contracts, as the annualized caseload numbers are limits, not mandates, and attorneys can decline cases when required to do so pursuant to the Oregon Rules of Professional Conduct. In practice, however, they can operate as flat fee contracts, particularly for part-time public defenders, as they accept appointments to the maximum attorney caseload in exchange for a flat rate.

Legislative intent is to move away from the FTE/MAC contract model effective July 1, 2025. That's informed not only by SB 337, but also HB 2023 (2021), which directed the agency to “adopt policies ... public defense providers that ensure ...caseloads are in accordance with national and regional best practices” and to “adopt a statewide workload plan, based upon the caseload policies ...” OPDC is developing a workload standard compliant with the mandates of the legislature, which will include consideration of both annualized and open caseload numbers.

TRANSITION AND FUTURE STATE

SB 337(2023) is clear in what the future of public defense in Oregon will look like in terms of providers. By July 1, 2027, public defense in Oregon will be provided by:

- State employees,
- Counsel employed at a non-profit, or
- Paid hourly as part of panel of qualified counsel.

OPDC is in the process of establishing or bringing enhanced structure to these three provider types.

STATE EMPLOYEES

SB 337 (2023) authorized OPDC, for the first time, to employ trial attorneys to represent clients. This represents a large shift in Oregon public defense, as prior to this Oregon was the only state to provide one hundred percent of trial public defense services through contracted providers.

OPDC is in the final stages of opening three trial division offices providing trial level public defense in criminal cases. These offices are managed by OPDC's Trial Division Chief Deputy Defender.

- Northwest Regional Trial Division Office – Opened December of 2023 and covers Clackamas, Washington, and Multnomah counties.
- Southern Regional Trial Division Office – Attorneys began taking cases in the Southern Region in February, the physical office will open on May 1, 2024 and will cover Douglas, Jackson, and Klamath counties..
- Central Valley Regional Trial Division Office – will open mid-April 2024 and will cover Marion and other counties in the surrounding area.

² [Evaluations - Sixth Amendment Center \(6ac.org\)](https://6ac.org/evaluations)

Each trial division office houses multiple attorneys and core staff including paralegals, legal secretaries, and investigators, all of whom are state employees. Case Manager and discovery clerk positions were recently funded by the Oregon legislature and will be added to these offices as those positions are filled (positions are funded beginning July 1, 2024).

Each trial division office prioritizes appointments to cases from the Oregon Judicial Department unrepresented list, focusing first on clients held in custody. As each jurisdiction's unrepresented list reaches nominal levels, trial division attorneys will begin taking additional cases. As state employees, OPDC has the authority to require trial division attorneys to accept appointment to cases in additional jurisdictions when current local attorney capacity is exceeded. The Oregon Legislature has set a goal for OPDC trial division attorneys to account for thirty percent of all appointed counsel by 2035. This represents about a 5% increase per year in state trial attorneys.

Building up these offices in an appropriate and thoughtful manner will also lead to a significant reduction in the unrepresented list. These offices will be staffed in accordance with the guidance laid out in the six-year plan and legislative funding, meaning they will be fully staffed with appropriate staff-lawyer ratios.

NON-PROFIT PUBLIC DEFENDERS

OPDC currently contracts with fourteen non-profit public defender offices. These are law firms that have dedicated one hundred percent of their practice to public defense and declared themselves as non-profit businesses under federal law. Since non-profits operate as single firms, they share conflicts which limits the number of cases in a single jurisdiction, however it allows the attorneys within the firm to work cases collaboratively without restrictions. This has allowed non-profit offices to serve as development grounds for newer public defenders. The firms also offer benefits such as health care and retirement, making them an attractive option for more experienced attorneys. Due to their non-profit status, they also allow employees to qualify for public service loan forgiveness. Some offices have acquired additional funding for partnering with the three Oregon law schools for training and supervision of law students through the development of law student clinics. The legislature continued this investment in HB 5204 (2024) which provides additional funding for public defense clinics in law schools.

The non-profit offices operate as independent contractors with OPDC, which means the agency does not have direct supervisory or oversight authority over the employees. OPDC has developed standards for non-profit offices to receive training and supervision funding and anticipates developing similar standards for oversight and supervision in non-profit public defense offices.

OPDC plans update its caseload and workload standards for the next contracting cycle so that non-profit offices can utilize a workload model..

PANEL ATTORNEYS

OPDC currently provides significant and increasing public defense services through attorneys accepting appointment to cases on an hourly basis. Many of these appointments are made directly by circuit courts without OPDC involvement, but OPDC directly manages hourly appointments to clients on the OJD unrepresented list. OPDC is working to formalize this system of hourly appointments into a panel of qualified attorneys available to take cases on a more regular and consistent basis. OPDC anticipates many

attorneys who are currently operating under a contract with a consortium to apply for panel membership. SB 337 (2023) requires the panel be in place by July 2025.

Currently, attorneys accepting appointment to cases on an hourly basis must fill out an hourly attorney agreement and be certified by OPDC for each case type for which they accept appointment but are under no other obligation to accept cases. Under the panel model, OPDC would have significantly more structure around case assignments, attorney support, supervision, training, and oversight for panel attorneys.

Attorneys interested in joining the panel will complete an application to be a member of the panel attorneys. Panel membership would be contingent on factors including:

- Practice Area;
- Certified qualifications of the Applicant;
- Forecasted service needs for the jurisdiction; and
- Willingness of the panel attorney to work in more than one judicial district when needed.

To better ensure appointment of qualified attorneys with sufficient capacity, OPDC staff in each judicial district would directly manage the assignment of cases to panel attorneys. OPDC will collaborate with local public defense providers, courts, and other system partners to develop and maintain an effective and comprehensive case assignment system. Panel attorneys will identify how many days per month they anticipate being able to pick up cases and will be expected to take cases for their jurisdiction for assigned days, barring conflicts or other overriding concerns.

The panel attorney program will increase the number of hourly attorneys in the system and will require additional OPDC staff to support this program. OPDC has successfully grown the current hourly attorney program in recent years. However, internal staffing needs have not been commensurate to this growth. Panel attorneys will access the Pre-Authorized Expense (PAE) system at a higher rate than state employees and non-profit public defense offices due to not having in-house case support services such as investigators and case managers. Any increase in PAE use will subsequently lead to increased use of the Accounts Payable (AP) services. Additionally, the AP team will see an increase in attorney invoices and must be prepared to process them in a timely fashion. The Commission will need additional staffing to support this expanded work, and will be requesting position authority from the Legislature.

STANDARDS AND OVERSIGHT

CURRENT QUALIFICATION AND PERFORMANCE STANDARDS

The Compliance Audit and Performance (CAP) division is organized into the following sections: (1) Administration; (2) Trial Criminal Compliance; (3) Juvenile/Parent Child Representation Program (PCR) Compliance; (4) Research, and (5) Internal Audit, which reports directly to the Commission. Within these sections are the policy writers in Administration; Trial Resource Counsel within Criminal and Juvenile/PCR Compliance; data analysts within Research, and two internal auditors within Internal Audit. Functionally, four program analysts from the Administrative Division of OPDC work with the resource counsel of both Adult and Juvenile/PCR to support providers in their contracts. This team of resource counsel and program analysts are called the Trial Support and Development team (TS&D). This

team, along with the Data Team (Research) and the Policy Team (Administration) are working to build and carry out the functions of CAP.

OPDC's Trial Support and Development team (TS&D) is responsible for the standards and oversight of OPDC contractors. The attorney positions currently reside within CAP, while the program analysts are under the administration division. OPDC's goal is to bring this unit out of its current divisions and unify it under a new division, there by separating the program from CAP and contract administration.

TS&D currently promulgates qualification standards for attorneys providing public defense services, which were last revised in 2019. All attorneys providing services to clients eligible for appointment of counsel at state expense are required to have a Certificate of Attorney Qualifications on file with, and approved by, OPDC. TS&D reviews all certification requests received by the agency to assure that the applying attorney meets OPDC's standards for experience, skill, and training prior to their appointment in any case. Once certified for a given case type, an attorney can continue to operate under their certificate without renewal. OPDC maintains oversight functions over complaints and resolution of those complaints may include suspension, modification, or revocation of qualification standards in extreme cases.

OPDC's Qualification Standards require all attorneys providing services funded by OPDC to agree to adhere to OPDC's standards contained within its contracts, the Oregon State Bar Performance Standards, the Oregon Rules of Professional Conduct, and American Bar Association Standards.

OPDC does not currently have formal qualification or performance standards for any other core staff roles. OPDC has some qualification requirements for certain expert and core staff roles sought under the Pre-Authorized Expense (PAE) policy, but these are minimal, unformalized, and not universally applicable.

FUTURE PLANS FOR QUALIFICATION AND PERFORMANCE STANDARDS

OPDC's TS&D team has begun the process of developing and revising qualification and performance standards for all core roles involved in the provision of public defense services. OPDC is prioritizing the development of standards for non-attorney core staff roles:

- Paralegals and Legal Assistants
- Investigators
- Interpreters
- Case Managers
- Social Workers
- Mitigation Specialists
- Technical Support

To develop these standards, TS&D has researched industry standards for each role and is forming work groups to ensure robust provider feedback and collaboration.

Simultaneously, TS&D is revising the current attorney qualification standards with two overarching goals:

- More appropriately matching qualification standards to the skills required for given case types;
- Increasing the variety of opportunities for demonstrating capacity in those skills.

This revision will include the use of OPDC-certified training courses to substitute for or augment current qualification standards and will require periodic recertification including a showing of continued practice in the certified case types and adherence to performance standards.

New qualification standards would acknowledge four general practice areas with significantly different tools and procedures, though with substantial overlapping skill sets:

- Criminal qualifications would cover practice areas similar to current standards. The qualifications will be clarified and adjusted to account for the relative complexity of some felonies and will require additional experience and certification for crimes falling under Measure 11 (1995) and punishable by a life sentence. The qualifications at all levels will be adjusted to include baseline trainings from OPDC, when they become available, and at higher levels will require attorneys seeking qualification to submit work product for OPDC’s review.
- Juvenile qualifications would cover two primary content bases, each with a separate experience track. Delinquency qualifications will mirror the criminal qualifications track but would require additional skill certification around understanding brain development and how that affects representation of youth, continued representation of a youth post disposition and in managing ongoing relationships with system partners. Dependency qualifications would have its own experience track and require significantly heavier training or experience in out-of-court negotiation and advocacy skills.
- Civil qualifications would collect current qualifications that fall under the rules of civil procedure into a new broad category to better account for their differences from other qualification areas. This qualification area will consist of criminal contempt, habeas, post-conviction relief, civil commitment, and adoption defense proceedings. These are distinct from other qualification areas and need to be separated out because of the specialty nature of the proceedings that make them distinct from criminal or juvenile cases. Separating these case types will allow OPDC to develop and grow these practice areas.
- Appellate qualifications: Direct appeals and PCR appeals

OPDC expects to have drafts of new standards in late 2024. Once developed, OPDC anticipates a short period of wider provider and commission feedback and discussion prior to submitting the new standards for commission approval.

CURRENT OVERSIGHT CAPACITY

OPDC oversight capacity is currently mostly limited to reactive personnel-intensive tasks:

- Review of court records to ensure that bills submitted to the agency were on appointed cases.
- Review and investigation of client or system partner reported complaints about attorney performance.

OPDC has a small number of data-backed [key performance measures](#):

- Median number of days to file opening brief on appeals cases.
- Percentage of customers rating OPDC’s customer service as “good” or “excellent.”
- Percentage of best practices met by commission.
- Percentage of attorneys engaging in 12 or more hours of CLE instruction each year

- Percentage of PCRPs attorneys reporting spending 33% or more of their work hours in communication with their client

Of these KPMs, three currently require an annual survey to be planned, developed, and administered by OPDC staff.

In late 2022 and early 2023, OPDC’s data and research team revised the data submission process for contractors, significantly improving OPDC’s ability to analyze and understand provider work. The team has been working consistently to build the data infrastructure to begin utilizing submitted data and provide more regular and consistent reports on provider work product. That infrastructure has already dramatically reduced the personnel time required to analyze the PCRPs client communication KPM. OPDC needs to continue to provide support and training to ensure accuracy of data.

FUTURE PLANS FOR OVERSIGHT CAPACITY

Because of its current capacity limitations, OPDC’s oversight is reactive, resource-intensive, and largely unconnected from data. OPDC’s primary goal to improve oversight in the near term is to develop a more proactive data-informed oversight scheme allowing for more judicious and effective use of its limited personnel resources.

OPDC has gathered quality indicator samples from national resources to begin developing additional key performance metrics for the provision of public defense services in Oregon. The workgroups formed by TS&D to develop qualification and performance standards will also discuss which performance metrics are most relevant to practice in Oregon and how best to tune those measures. Those KPMs will then further inform the data either captured by a financial case management system or obtained from system partners. OPDC’s data and research team is working with the Oregon Judicial Department to gain access to their data vault to reduce the duplication and improve the validity of data entered by OPDC providers.

In addition to KPMs derived from a financial case management system and system partner data sources, OPDC will also deploy staff and contracted attorneys to perform routine on-site system monitoring to help identify individual and systemic concerns about the provision of public defense services.

TRAINING AND SUPERVISION

SUPERVISION

Each public defense delivery model will need a supervision plans as each model will have unique challenges and opportunities. The supervision plan for the non-profit public defense providers would not work for supervision of the panel attorneys. And both of those models are different from the state-employee offices. OPDC will ultimately be responsible for the supervision of all attorneys in the system. The subject matter experts in the TS&D will lead the supervision development and implementation, supported by data from the CAP team.

Panel attorneys

Supervision will be performed by observation, discussion with stakeholders and measuring of KPMs. OPDC plans to establish an advocacy counsel program consistent with the structure of the Massachusetts public defense system’s Bar Advocate Counsel. Local attorneys will contract with the OPDC to provide

the first layer of supervision for panel attorneys in their region. Until this system can become fully functional, OPDC TS&D division will be performing these functions. Once the system is fully functional, OPDC TS&D would assume supervision of the advocacy counsel and thus the second layer of supervision of panel attorneys. Panel attorneys will be required to cooperate with advocacy counsel to be included in the panel. The advocacy counsel may be required to provide mentoring as directed but otherwise will pass on any representation quality concerns to the TS&D division which will, in coordination with CAP, the advocacy counsel, and the panel attorney, work to resolve the issue and protect clients. Based on review of quality concerns TS&D may:

- Require additional mentorship.
- Completion of additional trainings.
- Reduction of appointed caseloads.
- Reduction of qualification levels.
- Removal from panel.
- Other options aimed at improving attorney performance.

State-employee offices

The attorneys in the state Trial Division (TD) offices will be supervised within the structure of that office. Additionally, TS&D counsel will provide supervision through observation and discussion with stakeholders. TS&D will be notified if a TD employee is not meeting representation standards. Upon receiving information about a state employee not meeting representation standards, TS&D will work with the Trial Division's supervision structure and CAP to develop a rehabilitation program to monitor and/or will otherwise make a recommendation to the Chief of the TD.

Non-profit public defenders

On November 13, 2023, OPDC approved a supervision policy for providers who were receiving additional supervision funding. The program is comprehensive but does not include adequate oversight nor requirements for notification to OPDC of any deficiencies. The non-profit public defenders are independent contractors and thus subject to the rules differentiating them from employees. Due to independent contracting laws, OPDC cannot have direct oversight or supervision of the employees of the independent contractor. The non-profit public defenders do have oversight and supervision authority over their own employees. OPDC will need a clear memorandum of understanding with the non-profit public defenders as to how, when and under what circumstances the non-profit public defense firms need to notify OPDC about concerns/deficiencies of their employees as well as the minimum requirements OPDC will have for oversight and supervision.

TRAINING

OPDC has begun establishing training programs targeted at developing the skills of appointed attorneys. These trainings fall into one of three categories:

- 1) Asynchronous virtual trainings based on the qualification standard's requirements that lawyers have the skills and knowledge needed to handle more complex cases.
- 2) Small in-person trainings that meet the specific needs of lawyers in a community and allow for lawyers to get more individual attention and instruction.
- 3) Training programs that are a combination of asynchronous and synchronous trainings that provide both learning opportunities and community building to help with retention issues and providing advancement opportunities.

The training programs developed by OPDC would be different and distinct from the continuing legal education (CLE) programs provided by the Oregon Criminal Defense Lawyers Association (OCDLA), the Oregon State Bar (OSB), and other groups. For example, OCDLA provides high-level CLE programs on a variety of topics to the criminal defense community as a whole – both retained lawyers and public defense providers, at the State and Federal level, as well as investigators. These CLEs are almost entirely in the form of large group lectures presented at conferences throughout the year. In contrast, the OPDC training programs will be more targeted to meet the unique needs of public defense providers as part of the OPDC’s obligation to ensure quality representation and provide necessary oversight and supervision.

OPDC’s highest training development priority is online training programs to increase oversight and establish objective, measurable advancement criteria for lawyers to progress to more complex case types, for example misdemeanor cases to felony cases. TS&D’s resource counsel completed the National Association of Public Defenders’ Train the Trainer course, an intensive two-week training on how to develop and host virtual training programs. Resource counsel have begun to create the necessary trainings to include in qualification standards. Many states have implemented online training requirements for qualification certification, allowing for more robust skill-oriented requirements which attorneys are allowed to complete on their own schedule. Testing and other metrics allow for OPDC to monitor the training programs and ensure successful completion prior to certification. Online training programs allow for routine updates to content relevant to shifting caselaw, and provide a long-term, cost-effective training program. The training program will provide the foundational basis for KPMs, qualification and performance standards, and successful monitoring and supervision of attorneys. The programs can be expanded over time to include other key staff. OPDC will need to address foundational hardware and software needs prior to full implementation of virtual training programs, however there are pathways to expediting the rollout of training programs.

Virtual trainings can also be used to provide opportunities for the agency to have “How To” trainings. These would assist law office staff with interacting and using the agency procedures, such as how to submit a PAE requests and how to correctly submit invoices or data reports. Remedying incorrectly submitted requests and reports currently takes significant agency resources and has contributed to OPDC’s current backlog. Clear and concise instructions on how to interact with OPDC would improve transparency between providers and OPDC as well as help with fluidity and consistency. As OPDC systems become more automated, trainings can be made available to attorneys and their core staff. Frustration with OPDC processes have been reported as a major reason for attorneys leaving the public defense system, using trainings to increase transparency in agency processes would aid in retention, in turn reducing the need for additional attorneys.

Virtual trainings are being developed to assist with the transition of lawyers moving from out-of-state into Oregon’s public defense system. As OPDC and providers have been increasing recruitment efforts outside of Oregon, there has been an influx of experienced lawyers coming to work in Oregon’s public defense system from other states. OPDC is establishing virtual trainings to train experienced attorneys quickly and efficiently to the unique aspects of Oregon practice, assisting them prepare for other trainings, as well as OCDLA’s CLE programs.

The small, targeted in-person trainings are also a high priority for OPDC and need to be developed alongside the virtual trainings. Initially, these in-person trainings will have two main objectives – to introduce new public defenders to the ethical and practicable issues of public defense work and to deal with specialized topics.

In September 2023 OPDC used funding from the Edward Byrne Memorial Justice Assistance Grant (JAG) to contract with Gideon’s Promise, a nationally recognized, top tier training program for public defenders. Gideon’s Promise provided a one-week condensed version of their Core 101 training for 30 newer public defenders in Oregon. OPDC also contracted with OCDLA to provide the same group of lawyers a three-day trial-skills training. The participants overwhelmingly endorsed the Gideon’s Promise training be provided for all young public defenders in Oregon with some recommendations for how to make the training even better in the next iteration. Gideon’s Promise is interested in establishing an ongoing relationship with OPDC to provide foundational public defense training. This type of training is important to set the foundational expectations for public defenders who are often representing persons with mental health, physical health (including addiction), and other challenges based on socioeconomic factors as well as provide a sense of community among young public defenders.

In November 2023 OPDC, in partnership with Former Chief Justice Paul DeMuniz, conducted a training targeted at new attorneys or attorneys who have been practicing civil law. The three-day training provided instruction on representing clients on misdemeanor cases. After successfully completing the training, the attorneys were qualified by OPDC for misdemeanor level representation. The training was a combination of lectures and demonstrations by public defenders, private bar attorneys, judiciary members, and a member of the Marion County District Attorney’s Office. The training was initially aimed solely at Marion County practitioners and so all of the presenters were drawn from the Marion County area; however, the training was expanded to include participants from other regions in the state.

In February 2024 TS&D resource counsel developed and presented a training in Oregon’s felony sentencing scheme to the lawyers of the State Trial Division. This was a half a day intensive training designed to help the lawyers of the State Trial Division who have not practiced criminal law in Oregon or have not practiced in some time get up to speed on Oregon’s felony sentencing rules. The training covered the basics of Oregon’s felony sentencing grid, as well as more advanced topics.

The other form of small, targeted in-person trainings would fill the gap between large CLE formats and virtual trainings. OPDC sees these training programs as trainings focused on a single topic or issue that travel around Oregon, thereby allowing the trainers to go into the community and interact with the local providers as well as making it easier for those providers to access trainings. The training would include an expert in the topic or issue, a discussion of appeal issues on that topic or issue and then the ability for lawyers to get experience practicing using the information or skills provided. These trainings need to be small to allow local providers to have individualized instruction while the training is not too long or disruptive to the court process. The target audience for these trainings would be the public defenders who cannot afford the time or money required to go to many CLE programs, providers who are dealing with local issues that a statewide training is unlikely to address, and attorneys who want more in-depth, hands-on trainings on complex forensics. Whenever possible, these trainings would utilize local expertise to bolster the presentations.

Finally, the third type of training developed by OPDC would be a combination asynchronous and synchronous training, focused on topics like fostering leadership skills in public defenders interested in moving into management positions. While OPDC needs to initially focus its efforts on the recruitment and retention of public defense attorneys who are providing quality representation for the citizens of Oregon, OPDC also needs to ensure that career advancement opportunities for public defenders, thereby keeping them in the system and ensuring smooth leadership transitions. As OPDC moves toward a system where supervision of panel lawyers is done by local advocate counsel this training would be a stepping-stone for lawyers interested in moving into those roles.

SIX YEAR PLAN

In 2023 OPDC used funding from the Edward Byrne Memorial Justice Assistance Grant (JAG) to contract with Moss Adams to produce the *Oregon Public Defense Commission Six-Year Plan to Reduce Representation Deficiency* (Six-Year Plan). The final plan should be adopted by the Commission by June 2024. The aim of the Six-Year Plan is to provide the legislature with a menu of options to consider in ensuring the agency can meet its statutory mandate, as ORS 151.216 directs the agency to ensure caseloads and workloads are in accord with national and regional best practices. OPDC is reaching out to other public safety stakeholders, the public defense community, impacted communities, and other stakeholders to discuss impact of the Six-Year Plan.

The plan provides a two-pronged approach to form a strategy to eliminate excessive workloads for public defenders who manage the full spectrum of adult criminal case types by 2031. The two critical categories that drive the six-year plan include:

- **People and budget strategy** - factors address the strategy of adding to, and reallocating, resources within, and contracted by, OPDC.
- **Policy strategy** - factors address actions that can either reduce or increase caseloads.

Enactment of the plan will produce reasonable workloads, optimize costs, and most critically, enable Oregon's public defenders to fulfill their ethical and constitutionally mandated duty to provide effective defense services.

The executive summary of the 6 year plan, if adopted/accepted in May, will be inserted here.

APPENDIX

The Oregon Report

Six Year Report



Date: April 10, 2024

To: Jennifer Nash, Chair
OPDC Commissioners

Cc: Jessica Kampfe, Executive Director

From: Eric Deitrick, General Counsel

Re: Temporary Hourly Increased Rate Program (THIP)

Nature of Presentation: Action Item

Background: THIP was implemented by the prior commission on July 29th, 2022. The program increased the rate for non-contract hourly attorneys from \$75/hour to \$158/hour. The program was initially funded with a specific legislative allocation of \$ 2,047,467 to be spent over a six-month time period, and it was responsive to persons in custody without an attorney. The program has gone through several iterations, expansions, and extensions since its inception, including being opened to providers under contract and with full 1.0 MAC. Currently, THIP is restricted to people in custody and set to expire on June 30, 2024.

The initial goal of the THIP program was two-fold: (1) to incentivize existing public defense attorneys to accept additional in custody clients and (2) to attract additional attorneys into public defense work by raising rates closer to the federal panel rates. When a private bar attorney accepts an appointment to represent a client at the arraignment or first appearance, the attorney receives \$130 or \$145 per hour, depending upon the case type. If the attorney accepts an appointment to represent a client when the person is placed on OJD’s dashboard regarding unrepresented persons, the attorney receives the elevated THIP rate.

The financial costs of THIP are high, roughly \$20.4 Million as of April 9, 2024. Additionally, OPDC staff time has been appropriated away from their key tasks in order to manage the program, which includes burdens on communication, documentation, data, and bill processing. Another consequence of the THIP program is that the agency’s maximum attorney caseload (MAC) policies are no longer enforceable.

The Legislature’s Emergency Board will meet in May. THIP is only funded through June 30, 2024.

Agency Recommendation:

OPDC is recommending the Commission decide whether to direct OPDC staff to submit a letter for the May Emergency Board seeking to expand THIP.

Fiscal Impact:

THIP \$\$ Paid (as of 4/9/24)

Period	Attorney's Enhanced Fees	Investigator's Fees Enhanced	PAE Expenses	Total THIP \$\$ Paid
8/1/22 - 6/30/23	\$3,118,548	\$607,219	\$1,088,413	\$4,814,180
7/1/23 - 11/30/23	\$5,898,974	\$1,440,377	\$1,464,414	\$8,803,765
12/1/23 - Current	\$4,390,876	\$962,611	\$1,432,848	\$6,786,334
Total	\$13,408,397	\$3,010,207	\$3,985,675	\$20,404,279

The above table shows the fiscal cost of THIP since its inception, broken down into attorney's fees, investigation fees, and other Pre-Authorized Expenses (PAE). For comparison, the cost of a 1.0 FTE contract for a Tier 4 Attorney is \$246,378/year. Increased investigation rates (from \$40-45/hr to \$75/hr) were not authorized until October 20th, 2022. The cost to date includes only work billed as of April 9th, 2024.

Agency Proposed Motions:

None



May 31, 2024

The Honorable Rob Wagner, Co-Chair
The Honorable Representative Julie Fahey, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs:

Nature of the Request

The Public Defense Services Commission (PDSC) is requesting access to the \$5 million special purpose appropriation for transferring the commission to the executive branch in Senate Bill 5506 (2023) to fund strategic agency positions identified through a gap analysis at an estimated cost of \$445,000 General Fund for 3 positions (1.50 FTE) for the remainder of the 2023-2025 biennium. The 2025-2027 biennial costs are estimated at \$890,000 General Fund for 3 positions (3.00 FTE).

Agency Action

Strategic Positions for Agency Procurement and additional contracted support.

Through a gap analysis based on the legislatively requested agency remediation plan, the agency has determined the need for various positions that will help with the smooth transition of the Public Defense Services Commission into the executive branch. Crucial to the success of the agency's transition are the procurement staffing needs and the immediate contracting support needs for the Financial Case Management System.

Procurement, along with IT, is the biggest areas of change for OPDC. The agency has been exempted from procurement statutes since its inception. This has led to OPDC contracts being administered by program analysts, who although are serving as program administrators are not technically trained in contract administration or procurement. While this has not been an issue in the past is a definite issue going forward. The result is that the same people who are technically responsible for contract administration are the same people who are tasked with supporting providers in their contracts with creates a separation of duties issue.

Moreover, the current process generates numerous amendments to contracts on a monthly basis in an effort to accommodate provider workload changes, changes in qualifications, and to address provider staffing issues regardless of the size, and with minimal regard to the amount of work that is generated to constantly make these changes. There remains an inherent conflict of interest, as procurement and contract management should be separate from the administration of

program functions and oversight. Due to the large volume of procurement work being generated on a regular basis, analysts are unable to provide the oversight needed to properly monitor the program and evaluate performance.

At some point in the past the agency had been afforded a Procurement section in the budgeting systems. Although staff has been placed in this section, none of them are professionally trained procurement and contracting specialists. The staff in this section are the program analysts, the analysts who work through the Preauthorized Expenses division and the Manager 4 who is currently the CAP manager. In August 2020 the Procurement Analyst 1 position was administratively reclassified outside of the budget process. Then during the June 2022 emergency board that position was officially reclassified as a facilities manager (Manager 2). It was also around 2020 when the program analysts' duties changed and expanded as discussed above. OPDC is currently in the process of reconciling their operational organizational structure with their budgetarily funded organizational structure.

As the agency has evolved, the lines of responsibility have been blurred and the division of labor, expertise and decision making is compromised. Procurement analysts are responsible for compliance with procurement law, posting procurements and managing the procurement process, while program analysts perform the contract administration, performance monitoring, program development to include the establishment of policies and process. Due to the current workload, analysts have had to prioritize the contract work while setting aside the evaluation of the program outcomes to determine success. This dynamic is placing the agency at risk as the analysts are not focused on developing the programmatic needs of the agency as it grows from a pass-through agency to one that will not only contract with providers but one that also provide direct services. This current process is cumbersome and creates a tremendous liability for the Commission when trying to report to the Legislature and account for caseloads and funding.

As OPDC transfers to the Executive branch it no longer maintains its Contracting Agency exception afforded by ORS 279A.010 (Definitions for Public Contracting Code)(1)(b)). In fact, the change of branches effectively triggers and makes applicable ORS 279A.159 (Education and training or experience requirements for persons that conduct procurements or administer contracts for state agencies), OAR 125-246-0140 (Procurement Authority) and OAR 125-246-0170 (Delegation of Authority). To further complicate matters the manner in which provider contracts are executed may necessitate a special procurement in accordance with ORS 279B.085 (Special Procurements) as they exceed the limits of small and intermediate procurements.

1. OPDC is requesting the addition of the procurement positions that are required to ensure the agency has the necessary staffing to address the move to the executive branch. An additional \$445,000.00 in General Fund will fund three Procurement Contract Specialist for a combined 1.50 FTE. These positions were identified through a gap analysis of what is required of the agency to comply with the state procurement rules it must follow under the Department of Administrative Services as the agency transition to the Executive Branch. These positions will have an estimated 2025-2027 roll up cost of \$890,000.00 million General Fund (3 positions and 3.00 FTE).

The positions include:

- a. **PCS2 (1 position, 0.50 FTE)** Responsibilities of this position include acting as the Chief Procurement Officer for the agency. Developing specifications and develop or adapt solicitation documents. Read critically, understand, interpret, and apply terms and conditions set forth in public contracts of the scope and nature. Draft scopes of work, statements of work, contract amendments, change orders, insurance requirements, notices and other documents and communications that are necessary to conduct a procurement or administer a public contract of the scope and nature for which the person is or will be responsible.
 - b. **PCS1 (1 position, 0.50 FTE)** Follow regular business and office procedures, implement applicable state contracting agency policies and procedures and otherwise conduct procurements or administer public contracts for a state contracting agency in accordance with best practices.
 - c. **PCS1 (1 position, 0.50 FTE)** Follow regular business and office procedures, implement applicable state contracting agency policies and procedures and otherwise conduct procurements or administer public contracts for a state contracting agency in accordance with best practices.
2. Currently the Financial Case Management System project is approaching a crossroad and is without procurement staff. The agency does not have anyone on staff who can write, solicit, and manage an RFP and DAS does not have the current capacity to assist with the project. In the interim the agency will be seeking outside IT procurement assistance to keep the project moving forward. OPDC is working with DAS EIS to identify an experienced contractor who specializes in IT procurements. The agency anticipates needing approximately \$30,000.00 (200 hours at approximately \$150.00 per hour) to secure these services and will use vacancy savings that are available in the project budget.

Action Requested

The PDSC is requesting access to the executive transition SPA set aside in SB 5506 (2023) for \$445,000.00 General Fund appropriation and expenditure authority for three (3) positions (1.50 FTE) for the 2023-2025 biennium to ensure a smooth transition to the executive branch. The 2025-2027 biennial costs are estimated at \$890,000.00 General Fund (3 positions and 3.00 FTE).

Legislation Affected

Oregon Laws 2023, chapter 481, section 1 (9). + \$445,000.00

Oregon Laws 2023, chapter 605, section 113 (1). - \$445,000.00

Sincerely,

Jessica Kampfe
Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer

John Borden, Principal Legislative Analyst, LFO

Kate Nass, Chief Financial Officer

Zack Gehringer, Policy and Budget Analyst, CFO



May 31, 2024

The Honorable Rob Wagner, Co-Chair
The Honorable Representative Julie Fahey, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairs:

Nature of the Request

The Public Defense Services Commission (PDSC) is requesting access to the \$5 million special purpose appropriation for transferring the commission to the executive branch in Senate Bill 5506 (2023) to fund strategic agency positions identified through a gap analysis and contracted services at an estimated cost of \$858,000.00 General Fund including 4 positions (2.00 FTE) for the remainder of the 2023-2025 biennium. The 2025-2027 biennial costs are estimated at \$1.28 million General Fund including 4 positions (4.00 FTE).

Agency Action

Information Technology Strategic Positions and additional contracted support.

Through a gap analysis based on the legislatively requested agency remediation plan, the agency has determined the need for various positions that will help with the smooth transition of the Public Defense Services Commission into the executive branch. Crucial to the success of the agency's transition are the staffing and contracting support needs for Information Technology Services transition.

The Commission recently hired a Chief Information Officer (CIO) with numerous years of experience working with the Department of Administrative Services Enterprise Services to lead the commission's IT systems transition to the Executive Branch of government. The CIO has been working with DAS EIS and the agency human resources staff to do a needs assessment on existing staff, in addition to working with OJD ETSD to begin identifying needs while working through the transition plans. The 2024 Legislature provided four essential positions as a start to moving the transition forward, however additional positions and some additional contracted services will still be needed as the transition moves forward. The agency signaled that it would return in a future E-board to request the additional positions, and through the assessment work of the commission's CIO has identified some additional contract needs.

1. OPDC is requesting the addition of four additional Information Technology Services positions that are required to ensure the agency has the necessary staffing to address the

move to the executive branch. An additional \$638,000.00 in General Fund will fund four Information Technology Specialists (ITS) for a combined 2.00 FTE. These positions were identified through a gap analysis of what services the Oregon Judicial Department is currently providing vs. what services will be provided by the Oregon Department of Administrative Services (DAS). This request directly ties to the remediation issue of evaluating the current IT structure and identifying needs. These positions will have an estimated 2025-2027 roll up cost of \$1.28 million General Fund (4 positions and 4.00 FTE).

The positions include:

- a. **ITS3 (1 position, 0.50 FTE)** The responsibilities of a Chief Data Officer include overseeing the collection, management, and storage of data across the organization. Responsible for developing data storage policies, ensuring the security, preservation, and legal compliance of data. Maintaining a myriad of disparate data systems, including provider registries, contract management systems, payment systems, and case management systems. This position was identified as a need in response to the issue “Evaluate current data security and independence.” (Chief Data Officer)
 - b. **ITS3 (1 position, 0.50 FTE)** A web services developer oversees configuring and managing access to SharePoint, ensuring a secure and efficient collaborative environment. Additional duties include designing and maintaining online forms using tools like Nintex, facilitating easy access and service requests for both internal and external parties. (Web Services)
 - c. **ITS2 (1 position, 0.50 FTE)** A desktop support position to cover increases in staff and additional locations. This position will assist the other desktop support positions with workstation installations, hardware setup and troubleshooting. (Desktop)
 - d. **ITS 1 (1 position, 0.50 FTE)** A triage specialist is responsible for handling incoming calls, creating and routing tickets as necessary. This position serves as the primary internal tier 1 support, ensuring that all issues are addressed promptly and efficiently. (Triage/Ticketing)
2. The agency is requesting the funding to establish a contract for a project manager focused on the transition of the commission’s information technology services. The magnitude of the transition as it is fully appreciated, in addition to the time frame in which has been identified in which to accomplish this transition will necessitate the full-time contracted services of a project manager with extensive experience in building and transitioning of information technology systems. The agency anticipates needing approximately \$100,000.00 (1,039 hours at approximately \$95.00 per hour) to secure these services on a one-time basis.
 3. The agency is also requesting the funding to establish a contract to move the agency form from the Nintex platform to a Microsoft E-forms. This will be both a cost savings to

OPDC to use existing software we already own (M365) but will future proof us and improve business processes due to the inherent Microsoft integrations. Outsourcing the transition of key Nintex forms into the Microsoft ecosystem will ensure we get a definitive product from someone with that subject matter expertise. This solution should create a seamless transition that will provide assurance that providers can interact with that agency as it transitions and builds its future financial case management system. The agency anticipates needing approximately \$50,000.00 (200 hours at approximately \$250 per hour) to secure these services on a one-time basis.

4. Finally, OPDC is interested in establishing a contract with the firm Info-Tech. InfoTech is a long-term strategic partner for OPDC, through its CIO and IT Division. Info-Tech provides tools and assistance with strategy, planning, through consultation and by providing tools for success. The commission will be purchasing an agency-wide IT assessment tool that should provide the engagement needed for the agency to transition and move to accomplish the will of the legislative as outlined for the Commission in SB 337 (2023). The agency anticipates a financial need of approximately \$70,000 for the life of this contract which includes consultative services in addition to ancillary charges for travel and an assessment tool, on a one-time basis.

Action Requested

The PDSC is requesting access to the executive transition SPA set aside in SB 5506 (2023) for \$858,000.00 General Fund appropriation and expenditure authority for four (4) positions (2.00 FTE) for the 2023-2025 biennium to ensure a smooth transition to the executive branch. The 2025-2027 biennial costs are estimated at \$1.28 million General Fund (4 positions and 4.00 FTE).

Legislation Affected

Oregon Laws 2023, chapter 481, section 1 (9). + \$858,000.00
Oregon Laws 2023, chapter 605, section 113 (1). – \$858,000.00

Sincerely,

Jessica Kampfe
Executive Director

cc:

Amanda Beitel, Legislative Fiscal Officer
John Borden, Principal Legislative Analyst, LFO
Kate Nass, Chief Financial Officer
Zack Gehringer, Policy and Budget Analyst, CFO



Date: April 17, 2024
 To: Jennifer Nash, Chair of OPDC
 OPDC Commissioners
 Cc: Jessica Kampfe, Executive Director
 From: Ralph Amador, CFO
 Re: PAE Processing

Nature of Presentation: Action Item

Background: OPDC has added additional personnel to aid in the processing of preauthorized expense applications. As of April 3, 2024, long form requests are 42 days behind.

All short form requests for investigation and rapid aid and assist evaluations are caught up and are once again being processed within 2 business days.

OPDC currently approves the following number of investigation hours on the short form:

Case Type	Total Hours	# of authorizations (split request if >1)	Hours per authorization
CMUR/JAMR/JMUR/JMR1/MUR 1/MURD	200	4	50
PCRA/PCR/JLAW	100	2	50
AM11/BM11/JM11	80	2	40
AFEL/BFEL/ CFEL/DFEL/ DVIO/PCS/UFEL	40	1	40
JUTC/JUTP/JUDF/HC	40	1	40
JDEC/JDEP	30	1	30
FAPA/SUPP	25	1	25
CONT/DUIS/DWSS/EXTR/MHMI/MISS/OTHR/OTMS/SCDV/JUDM/JUDO	20	1	20
DPV/FPV/ JPV/MPV	10	1	10

Additionally, each short form approval for investigation includes the following language: “Estimated miles – 150. Mileage approved is an estimate. Actual mileage will be paid at the guideline rate for the year in which it occurred. Start and destination cities must be indicated for each trip.”

OPDC acknowledges that in situations when a court hearing was scheduled with little notice, it is unfair for attorneys to wait for approval for lodging and/or meals due to the existing backlog. Similarly, the agency recognizes that a service provider shouldn't have to wait for approval if an emergency occurs and they need to stay overnight to complete a task.

Through June 1, 2024: For all outstanding and newly submitted Aid and Assist requests, mental health professionals can proceed with the forensic evaluation and receive retroactive approval. This is similar to the PAE policy for jurisdictions that have Rapid Aid and Assist Dockets. Any adjustments (rate, hours, etc..) made to the request will be communicated to the provider.

OPDC currently requires submission of the long form for all psycho-sexual evaluations. The agency believes that first requests for this service should be moved to the short form so that providers may begin work immediately upon submission of the form.

Agency Recommendation: OPDC is proposing the following changes to the PAE submission process:

1. OPDC has reviewed the number of investigation hours allowed on the short form and determined that some case types should be increased. Increasing the number of hours approved on the short form will speed up the process by reducing the number of subsequent requests for investigation that require the long form. OPDC recommends that the following case types be increased:
 - PCRA/PCR/JLAW – **150 (100)**
 - M11 – **120 (80)**
 - AFEL/BFEL/CFEL/DFEL/DVIO/PCS/UFEL – **80 (40)**
2. OPDC recommends that approval is granted upon submission of the short form and investigation work may begin immediately.
3. OPDC recommends that the estimated mileage be increased from 150 to 250 miles. In the event that a case is scheduled for hearing on short notice or if a service provider needs to stay overnight to finish a task due to an emergency, OPDC recommends that attorneys and/or service providers be granted one night's lodging and meals at the guideline rates without having to seek preauthorization. Authorization shall be requested and approved retroactively.
4. OPDC recommends changing initial psycho-sexual evaluation requests, on cases where a sex offense has been charged, from the long form to the short form so that providers may begin work immediately.

Fiscal Impact: OPDC does not expect a fiscal impact however since fewer long forms will be submitted there should be an increase in efficiency both for providers and OPDC.

Agency Proposed Motion: Agency recommends that the Commission approve PAE changes as outlined in the agency recommendation.



Date: April 10, 2024
To: Jennifer Nash, Chair
OPDC Commissioners
Cc: Jessica Kampfe, Executive Director
From: Eric Deitrick, General Counsel
Re: Case Type Adjustments to Standard Hourly Attorney Rates

Nature of Presentation: Action

Background: On September 23, 2023, the commission approved changes to the hourly rates and created two tiers:

- **Tier 1 – MURDER, JLA, MEASURE 11, AFEL, BFEL AND ALL JUVENILE CASES = \$145/hr.**
- **Tier 2 – All other case types = \$130/hr.**

The two tiers were subsequently made part of the Schedule of Guideline Amounts which was approved by the Commission on December 14, 2023, and March 21, 2024.

It has recently come to the attention of OPDC that Appeals, Habeas Corpus, Mandamus proceedings & Post Conviction Relief cases were being grouped in Tier 2 under “all other case types”. It was not the intention of the agency to place those case types at the lower tier.

Recommendation: OPDC recommends moving Appeals, Habeas Corpus, Mandamus & Post Conviction Relief cases from Tier 1 - \$130/hr. to Tier 2 - \$145/hr.

Fiscal Impact: None. This policy clarifies an ambiguity in policy but not in practice. OPDC has been authorizing these case types at Tier 1 rates.

Proposed Motion: Agency recommends that the Commission approve the case type adjustments to the standard hourly attorney rates as outlined in the agency recommendation.



**Oregon
Public
Defense
Commission**

Date: April 10, 2024
To: Jennifer Nash, Chair
OPDC Commissioners
Cc: Jessica Kampfe, Executive Director
From: Eric Deitrick, General Counsel
Re: Vice Chair

Action: Election

Background:

ORS Chapter 151, as amended by SB 337 (2023), states that the Commission shall have a chairperson and vice chairperson; that both positions shall be elected by the voting members of the Commission; that the positions are two-year terms; that the persons holding those positions can be reelected; and that the positions are responsible for the functions established by the Commission. In January, the Commission elected a Chair but deferred on selecting as Vice Chair, as it was the first meeting of the newly constituted Commission and agency.

The Bylaws before the Commission today help define the functions of the Chair and Vice Chair.

Agency Recommendation:

OPDC is recommending the Commission elect a Vice Chair for a term to expire on December 31, 2025.

Fiscal Impact:

No fiscal impact.

Agency Proposed Motions:

Agency recommends the commission nominate a voting member of the Commission as Vice Chair for a term ending December 31, 2025.



**Oregon
Public
Defense
Commission**

Date: April 10, 2024
To: Jennifer Nash, Chair
OPDC Commissioners
Cc: Jessica Kampfe, Executive Director
From: Eric Deitrick, General Counsel
Re: Commission Bylaws

Action: Approval

Background:

ORS Chapter 151, as amended by SB 337 (2023), defines the responsibilities of the agency, the commission members, and the executive director. These statutory directives provide high-level guidance to the commission's role within the overall structure of the agency. They do not, however, provide specific guidance on all roles and responsibilities, nor are they granular as to other issues, such as how the agency works with the commission to set commission meetings, determine agenda items, distribute meeting materials, conduct meetings, record votes, create subcommittees, or adjudicate complaints.

Bylaws are a best practice for government boards and commissions and are essential to establishing norms of governance. They also fill in the gaps that statutes cannot provide in establishing roles and responsibilities and can establish the agency's expectations surrounding communication.

On January 4, 2024, this Commission authorized the creation of a Subcommittee on Governance. One charge to the subcommittee was to propose a set of Bylaws to the full commission. That subcommittee met on February 1, February 29, and March 14. This Commission reviewed a draft of the proposed Bylaws on March 20 and provided feedback and suggestions. Following that meeting, Commissioner Mandiberg redrafted and updated proposed Bylaws. The Subcommittee on Governance met April 8 to discuss and review the existing draft. Additional feedback was provided, and Commissioner Mandiberg drafted additional updates. A current draft of the proposed Bylaws is in the materials.

Agency Recommendation:

OPDC is recommending the Commission adopt the proposed Bylaws.

Fiscal Impact:

No fiscal impact.

Agency Proposed Motions:

Agency recommends the commission move to adopt the Bylaws.

MEMORANDUM

TO: OPDC Commission

FR: Susan Mandiberg, Chair, Governance Subcommittee

RE: Amendments to Draft Bylaws

DT: April 10, 2024

At the Commission meeting on March 20 the Governance Committee presented a draft of new bylaws. Commissioners and staff made a number of suggestions for amending the draft. The Governance Subcommittee met on April 8 to discuss responsive amendments to the draft. Eliminated material is in red; new and amended material is in blue.

This Memo provides information regarding the more complicated changes to the March 20 draft.

Appendices to this Memo:

- Appendix A ORS 659A.203(1)(b)-(d)
- Appendix B Audit Committee Charter
- Appendix C Chart comparing procedures for types of committees

Art. 1 Agency Name, Authority, Mission, & Basic Definitions													
(4)(d)	<p><u>Note:</u> “oversight” is used in the following subsections of the bylaws:</p> <ul style="list-style-type: none"> • Art 1(3)(b) [defining our mission] • Art 1 (4)(a) [“oversight capacity”] • Art 2 (9)(b)(ii) [“when acting in an oversight capacity”] • Art. 3(1) [“governing and providing oversight to the OPDC....” and in the phrase “oversight capacity”] 												
Art. 3 Roles & Responsibilities Generally													
(1)(a)(v)	<p><u>Note:</u> Removal of Commission Members is governed by ORS 151.213(3)</p> <ul style="list-style-type: none"> • In 2024 the Chief Justice may remove any member of the Commission at any time “for cause.” • In 2025, “[t]he Governor may remove any member of the commission at any time.” • Beginning in 2027, “[t]he Governor may remove any member of the commission at any time for inefficiency, neglect of duty or malfeasance in office.” <p><u>Note:</u> The Governor will be able to appoint Commission members when there are vacancies beginning in 2025.</p> <ul style="list-style-type: none"> • ORS 182.010 provides: “Any member of a state ... commission <i>appointed by the Governor</i> who fails to attend two consecutive meetings of the ... commission, whether regular, adjourned or special, shall forfeit office unless the member is prevented from attending by the serious illness of a member or the family of the member or for any other cause that in the judgment of the Governor constitutes a valid reason for failing to attend.” 												
(2)(b)	<p><u>Note:</u> The Commission loses, for a time, the ability to appoint the Executive Director.</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; width: 20%;">ORS 151.213</th> <th style="text-align: left; width: 40%;">Appoint</th> <th style="text-align: left; width: 40%;">Remove</th> </tr> </thead> <tbody> <tr> <td>2024</td> <td>(6)(b): voting members</td> <td>(6)(b) voting members for cause</td> </tr> <tr> <td>2025-6/1/27</td> <td>(9)(a): Governor/Senate</td> <td>(9)(b) serves at Gov’s pleasure</td> </tr> <tr> <td>2025-6/1/27</td> <td>(9)(a): Governor/Senate</td> <td>(9)(b) serves at Gov’s pleasure</td> </tr> </tbody> </table>	ORS 151.213	Appoint	Remove	2024	(6)(b): voting members	(6)(b) voting members for cause	2025-6/1/27	(9)(a): Governor/Senate	(9)(b) serves at Gov’s pleasure	2025-6/1/27	(9)(a): Governor/Senate	(9)(b) serves at Gov’s pleasure
ORS 151.213	Appoint	Remove											
2024	(6)(b): voting members	(6)(b) voting members for cause											
2025-6/1/27	(9)(a): Governor/Senate	(9)(b) serves at Gov’s pleasure											
2025-6/1/27	(9)(a): Governor/Senate	(9)(b) serves at Gov’s pleasure											
(3)(c)	<ul style="list-style-type: none"> • <u>Note:</u> language in the 2021 budget note¹ and the Audit Committee Charter (Appendix B) are best interpreted to have the Commission require OPDC auditors, not the Audit Committee, to report to the Commission. See Art. 5(2) for compatible provision. 												

¹ “The Public Defense Services Commission is directed to report to the Joint Committee on Legislative Audits during the Legislative Session in 2022 on the establishment of the Commission’s internal audit function. *The report is to include the internal audit staff reporting structure to the Commission....* The Commission may consider the establishment of an Audit Committee comprised of a subset of Commission members with quarterly reporting to the full Commission.” [Emphasis supplied.]

Art. 4 Meetings	
Gen'l	<ul style="list-style-type: none"> • <u>Note</u>: The Governance Committee reorganized Art. 4 to provide a separate section for each type of meeting. This makes it easier to distinguish the types of meetings and to address procedural issues separately for each type of meeting.
(2)(d)(ii)	<p>The issue here is what, if any, activities may be continued if the Commission loses a quorum temporarily when a necessary Voting Member leaves the meeting temporarily. Some of the language here is modeled on procedures used by the Legislature.</p> <p><u>Note</u>: ORS 192.610 provides the following definitions relevant to public meeting laws:</p> <ul style="list-style-type: none"> • (2) “<u>Decision</u>’ means any determination, action, vote or final disposition ... on which a vote of a governing body is required, at any meeting at which a quorum is present.” • (3) “<u>Deliberation</u>’ means discussion or <u>communication</u> that is part of a decision-making process.” • (5) “<u>Governing body</u>” includes “any public body” with 2 or more members that can make “recommendations to a public body on policy or administration.” • (6) “<u>Public body</u>” includes commissions, committees, subcommittees, and “advisory groups.” • (7)(a) “<u>Meeting</u>’ means the convening of a governing body or a public body for which a quorum is required....”
(3)(f)	<p>A simple reference to the procedures for regular meetings does not work because (1) there are no action items, and thus no motions or votes, at informational meetings, and (2) as the point of the meeting is public input, the procedures for obtaining that input need to be more relaxed.</p> <p>The timing included (3)(e)(ii) is open for discussion.</p>
(4)(e)	Timing makes it challenging to accommodate public input at emergency meetings.
Art. 5 Subcommittees, Audit Committee, External Advisory Groups	
(1)(d)	<ul style="list-style-type: none"> • <u>Feedback</u>: language changed to accord with similar language elsewhere. • <u>Explanation</u>: Sections added to conform procedure to subcommittee situation, with cross-references as appropriate.
(1)(e)	<ul style="list-style-type: none"> • <u>Explanation</u>: language added to make procedures work for subcommittees, keeping as close to regular Commission meetings as possible.
(2)	The budget note to HB5030 gives the Commission permission to establish an Audit Committee reporting to the Commission, but it does not require the Commission to do so; it mentions that OPDC’s audit staff reports to the Commission. ¹ The suggested language reflects the sense of the budget note.

	<p>The Audit Committee Charter, approved by the former Commission, indicates that (1) the Internal Auditor reports “functionally” to the Commission; (2) the Audit Committee advises “Management and the Chief Audit Executive <i>and/or the Commission</i>, as appropriate”; (3) “reports” annually to the Commission “on Committee activities.”</p> <p>There is nothing in the budget note, the Charter, or the bylaws for the former Commission that prevents the current Commission from amending the Audit Committee Charter.</p>
(2)(e)	<ul style="list-style-type: none"> • This was originally (4)(6). As informational meetings have different provisions, this one more sense as an aspect of regular meetings than a stand-alone provision;
(3)(b)	<ul style="list-style-type: none"> • <u>Feedback</u>: see Art. 5(1)(d). • <u>Explanation</u>: language added to reflect of OPDC activities.

BYLAWS

Article 1

AGENCY NAME, AUTHORITY, MISSION, AND BASIC DEFINITIONS

- (1) Name.** The name of this agency is the Oregon Public Defense Commission (“OPDC”).
- (2) Authority.** The OPDC was established pursuant to ORS 151.213, as amended by SB 337 (2023), effective January 1, 2024. The OPDC is governed by a 13-member commission (“Commission Members”), which includes nine Voting Members and four Non-voting Members.
- (3) Mission.**
 - (a) The OPDC’s mission is to establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution, Oregon and national standards of justice, and Oregon statutes.
 - (b) To achieve this mission, the Commission Members shall ensure furtherance of the goals articulated in ORS 151.216 by adopting policies, procedures, standards, and guidelines regarding those mandates, including the public defense service delivery model; public defense provider caseload and workload; qualification and performance standards; compensation, fees, expenses, and reimbursement; budget, resources, and funding; training, supervision, and oversight; data collection; and eligibility for court appointed counsel. The Commission adopts the principles outlined in the Oregon DEI Action Plan [\[hyperlink\]](#) in all areas under its jurisdiction and strives to ensure systems that recognize diversity and afford justice equitably and inclusively to all persons.
 - (c) To further achieve this mission the Commission Members, Executive Director, and OPDC Staff shall consider the perspectives of public defense providers, persons with lived experience in, or from communities impacted by the programs in areas under OPDC’s jurisdiction and other members of the public with an interest in the provision of services provided by those programs.
- (4) Basic Definitions.** The following definitions govern usage in these Bylaws:
 - (a) “Commission” means Voting and Non-voting Commission Members acting in their oversight capacity.
 - (b) “Staff” means OPDC employees other than the Executive Director.
 - (c) “Executive Director” means the person selected under ORS 151.213 ~~by the Commission~~ to carry out the duties set forth in ORS 151.219 and in these Bylaws.
 - (d) “Oversight” means exercising governance, supervision, direction, and guidance to the Oregon Public Defense Commission pursuant to ORS Chapter 151; it does not include interactions between the Executive Director or staff and Non-voting Members in their individual, contract, or legislative capacities.

Article 2

COMMISSION MEMBERSHIP

- (1) Membership.** Membership is defined by ORS 151.213.
- (2) Terms of Office.** Terms of office are four years, except for the initial terms created by SB 337 (2023) to stagger appointments. Terms begin on January 1 in the first year and expire on December 31 in the final year.
- (3) Appointments.** Appointments are made pursuant to ORS 151.213. Commission Members may be reappointed but may serve no more than two consecutive four-year terms. Commission Members appointed to fill a vacancy assume the term for the Member they replaced. If a vacancy occurs and is not filled by the appointing authority within 45 days the remaining Voting Members of the Commission shall, by a majority vote, select a Member to fill the vacancy for the remainder of the term.
- (4) Termination.** A Commission Member may be removed pursuant to ORS 151.213(3) and ORS 182.010.
- (5) Resignation.** A Commission Member who seeks to resign shall provide written notice to the appointing authority, the Chair of the OPDC, and the Executive Director.
- (6) Onboarding and Training.** New appointees shall attend an onboarding session as determined by the Executive Director. Members shall attend all trainings as required by Oregon law.
- (7) Chair and Vice Chair.**
 - (a) Voting Members shall elect, by majority vote, a Chair and Vice Chair of the Commission.
 - (b) The Chair is the public liaison of the Commission Members. It shall be the responsibility of the Chair or other person as directed by the Chair to speak on behalf of the Commission Members for official information concerning the OPDC.
 - (c) The Chair shall lead and manage Commission meetings, shall coordinate the planning of Commission meeting agendas with the Executive Director, and shall join with the Executive Director to present the OPDC's annual budget to the Legislative Assembly.
 - (d) The Vice Chair shall lead and manage Commission meetings when the Chair is unavailable and support the Chair in furtherance of their responsibilities as requested.
- (8) Ethics and Conflicts of Interest.**
 - (a) Commission Members shall comply with the government ethics provisions of ORS Chapter 244.
 - (b) A Commission Member has an actual financial conflict of interest if the proposed action would provide a financial benefit or detriment to the Member, the Member's relative, or any business with which the Member or their relative is associated. When met with an actual conflict of interest, the Member must announce publicly the nature of the conflict and refrain from discussion on the issue. The Member may not vote on the issue from

which the conflict arises unless the Member’s vote is necessary to meet the minimum number of votes required to take official action.

- (c) A Member has a potential conflict of interest if the proposed action could provide a financial benefit or detriment to the Member, the Member’s relative, or any business with which the Member or their relative is associated. When met with a potential conflict of interest, the Member must announce publicly the nature of the conflict but may continue to discuss the issue. The Member may vote on the issue from which the potential conflict arises.

(9) Communications Not Subject to Public Meeting Laws.

- (a) Commission Members may communicate orally or in writing with other Commission Members to the extent that communication does not violate ORS Chapter 192.
- (b) Communications with OPDC staff.
 - (i) Commission Members may communicate orally or in writing with OPDC staff on non-substantive issues, such as scheduling and IT support.
 - (ii) When acting in an oversight capacity Commission Members should not communicate orally or in writing with OPDC staff members regarding agency business without prior authorization from the Executive Director. The Executive Director or designee shall communicate such authorization in writing to the staff member and the Commission Member, including by email.
 - (iii) Individual Commission Members, in their personal capacities, may communicate orally or in writing with OPDC staff members; when doing so they shall make it clear that they do not speak for the Commission.
 - (iv) Nothing in this section is meant to prohibit OPDC staff members from disclosing to Commission Members information the staff member reasonably believes to be evidence of a violation of any federal, state, or local law, rule, or regulation or mismanagement, gross waste of funds, or abuse of authority, or substantial and specific danger to public health and safety resulting from OPDC action.

(10) Compensation and Expenses.

- (a) Voting and Non-voting Members are entitled to compensation and expenses as provided in ORS 151.213(8) and ORS 292.495.
- (b) Members entitled to compensation shall submit the information required by standards and procedures adopted by the Executive Director.
- (c) Indemnification. OPDC Commission Members, officers, employees, and agents shall be indemnified in the manner provided by ORS 30.285.

ROLES AND RESPONSIBILITIES GENERALLY

(1) Commission Members. Commission Members are responsible for governing and providing oversight to the OPDC, pursuant to the requirement of ORS 151.213 and 151.216.

(a) Commission Members shall:

- (i) Review, and provide input prior to an approval vote, the policies, procedures, standards, and guidelines required by ORS 151.216 regarding contracting, funding, compensation of counsel, resources, operations, caseloads and statewide workloads, data collection, training and supervision of appointed counsel, costs, overhead, pre-authorization requirements, financial eligibility of represented persons with appointed counsel, compensation plans, classification systems, and affirmative action plans.
- (ii) Review the budget of the Commission and provide input before any approval vote;
- (iii) Review the Commission’s annual report prior to the vote by Voting Members;
- (iv) Meet as needed to carry out their responsibilities.
- (v) Inform the Executive Director and the Chair as soon as practicable of an inability to attend a scheduled, special, or emergency meeting. The Chair shall maintain a record of absences and any stated reasons for such absences and may communicate the information to the appointing authority.

(b) Voting Commission Members shall:

- (i) Approve by majority vote the policies, procedures, standards, and guidelines required by ORS 151.216 before they take effect;
- (ii) Approve by majority vote the budget of the Commission before submission to the Legislative Assembly;
- (iii) Set biennial performance expectations for the Executive Director and require a performance review at least every two years in September in the odd numbered years based on those expectations. The performance review may include recommendations.
- (iv) Approve by majority vote the Commission’s annual report prior to its submission pursuant to ORS 151.219.

(c) Commission Members shall not make any decision regarding the handling of any individual case; have access to any case file or interfere with the Executive Director or OPDC staff in carrying out professional duties involving the legal representation of public defense clients.

(d) Individual Commission Members, in their personal capacities, may advocate for or against legislation before the Legislative Assembly; when doing so they shall make it clear that they do not speak for the Commission.

- (e) Individual Commission Members may, in their personal capacities, communicate with the press, members of the public, or both; when doing so Members shall make it clear that they do not speak for the Commission. An individual Commission Member may not act as spokesperson for the Commission unless authorized to do so in writing by the Chair.

(2) Executive Director.

- (a) The Executive Director is the chief executive officer for the Commission, the public liaison for OPDC, and the primary liaison between the Commission Members (voting and non-voting) and OPDC staff. The Executive Director shall ensure the agency carries out the policy directives established by the Commission.
- (b) The Executive Director is appointed and retained as provided by ORS 151.213.
- (c) The Executive Director of the Commission shall carry out the duties set out in ORS 151.219.
- (d) The Executive Director shall prepare an annual report covering the topics listed in Art. 3(1)(a)(i) and (ii) and submit it by December 31 of the calendar year as required by ORS 151.219 .

(3) OPDC Staff.

- (a) OPDC staff is responsible for agency administration and operations, and it performs its actions through the authority of its Executive Director, as defined by ORS 151.219.
- (b) OPDC staff shall carry out the duties set out in ORS 151.216.
- (c) OPDC auditors shall present an internal audit report to the Commission at least yearly.

Article 4

MEETINGS

- (1) Public Meeting Laws.** All meetings and executive sessions shall comply with public meeting laws pursuant to ORS Chapter 192.

(2) Regular Meetings.

- (a) Schedule and Notice. Commission Members shall meet according to a regular schedule, established at the first meeting of each calendar year and adjusted as necessary throughout the year. Notice of meetings shall be given to Members and posted on the OPDC website as early as practicable.
- (b) Agendas.
 - (i) Regular Commission meeting agendas will be finalized by the Executive Director and the Chair of the Commission. Agendas shall be determined with a focus on furthering the Commission’s mission as set out in Art. I of these Bylaws.

- (ii) Any Voting or Non-voting Member of the Commission may request the Chair to include an item on the agenda of an upcoming meeting no later than 10 business days prior to the meeting. If the item does not appear on the agenda, a majority of Voting Members may place the item on the agenda for the subsequent meeting.
 - (iii) Items to be voted on at an upcoming meeting shall be labeled as action items on the meeting agenda. All action items shall include time for discussion before a vote occurs.
 - (iv) OPDC staff shall publish the agenda to Commission Members and the public one week in advance of the meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.
 - (v) The Executive Director and the Chair, in agreement, may amend the agenda up until the start of the meeting. No action items may be added within one week of the meeting.
- (c) Materials.
- (i) OPDC staff shall publish materials to Commission Members and the public one week in advance of the meeting in which they are to be considered unless good cause is shown, as jointly determined by the Executive Director and the Chair.
 - (ii) OPDC staff shall prepare meeting materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.
- (d) Conduct of Regular Meetings.
- (i) The Commission may conduct meetings in-person, virtually, or through a combination of in-person and virtual attendance. All meetings shall afford the public the opportunity to access and attend the meeting virtually.
 - (ii) A majority of Voting Members constitutes a quorum of the Commission for the transaction of business at regular commission meetings. A quorum of the Commission is required to decide an action item and to deliberate on or discuss items that are likely to come before the Commission as an action item. A quorum is not required to receive testimony and similar input from staff or stakeholders and to ask questions of the person presenting.
 - (iii) Virtual meetings: cameras and identification. To ensure accurate assessment of a quorum during virtual meetings, Commission Members shall have their names posted and, to the extent practicable, their cameras on. All Voting Members shall have cameras on during a vote. Commission staff shall have names posted but may turn cameras off.
 - (iv) The Commission will not use Robert’s Rules of Order in conducting a meeting but will follow the procedural rules set out in these bylaws.
 - (v) The Chair shall lead and manage the meeting, or the Vice-chair in the Chair’s absence. Public comment may be allowed and shall be posted on the agenda when authorized.

Deliberation of issues will be conducted only by Commission Members, but the Commission may authorize OPDC staff or members of the public to provide information on any topic.

(vi) Motions.

- a. Any Voting Member of the Commission may make a motion regarding a posted action item, and that motion must receive the endorsement of a second Voting Member of the Commission before a vote can occur.
- b. Once a motion has been made and received an endorsement from a second Voting Member, there shall be a period for discussion.
- c. Following the discussion, the motion must be voted upon unless (1) the Member who made the motion withdraws the motion, or (2) the Member who provided the second endorsement withdraws that endorsement and the motion fails to get another second endorsement.

(vii) Voting.

- a. Commission Members must be present to vote.
- b. Commission Members must vote yea or nay, as no abstentions are allowed. Voting Members may explain on the record their reasons for a yea or nay vote or for asserting a conflict of interest.
- c. At a virtual meeting, or if any Voting Member is attending virtually, the Chair shall conduct a roll-call vote. If all Voting Members who are attending are in person, the Chair shall inquire whether there are any objections to adopting the motion under consideration. If no objections are made, the motion will pass, and it will be recorded as endorsed by all Voting Members present. If any Member of the OPDC objects to the motion, a roll call vote will be held.

(viii) Meeting Records and Minutes. All meeting materials, minutes, transcripts, and public comment shall be stored by OPDC and placed on the OPDC website for public access as soon as practicable.” A link to the meeting video shall be published on the website within five days after the meeting.

(ix) OPDC staff shall provide and publish one or more mechanisms whereby persons requiring reasonable accommodations to fully participate in a meeting may request such accommodations no later than the close of business 48 hours prior to the meeting. OPDC staff shall take all reasonable steps to ensure that such accommodations are provided.

(e) Public Comment.

(i) Oral. Members of the public may apply to the Commission for the opportunity to comment in person at Commission meetings. Such applications must be received by the Commission by the close of business the business day prior to the date scheduled for the meeting. The Chair shall allow all reasonable requests for public comment.

Public comment shall be limited to 3 minutes unless, in the Chair’s sole discretion, more time is allowed.

- (ii) Written. Members of the public may submit written comments regarding items on the agenda of upcoming meetings.
- (iii) Comment regarding action items shall be submitted no later than two (2) business days prior to the meeting at which the item is to be considered.
- (iv) Submissions received by the close of business two (2) business days in advance of the meeting in which they are to be considered shall be submitted to Voting and Non-voting Members and posted to the public on the OPDC website prior to the meeting.
- (v) Submissions received after a meeting and within 48 2 business days hours from the posted meeting time. shall be submitted to Voting and Non-voting Members and posted to the public on the OPDC website as soon as ~~praticable~~ practicable; in addition, such comments shall be included in the material for the subsequent OPDC regular meeting.

(3) Special Informational Meetings.

- (a) Authority. The Chair of the Commission may call special meetings of the Commission to gather information relevant to its mission. These may include ~~special~~ meetings dedicated to gathering input from members of the public, including those with lived experience in, or from communities impacted by the systems under the Commission’s jurisdiction with regards to specific issues or regions of the State.
- (b) Schedule and Notice. Notice of informational meetings shall be given to Members and posted on the OPDC website as early as practicable.
- (c) Agendas. Agendas shall be prepared in accordance with sec. (2)(b) except that the agenda may not contain any action items.
- (d) Materials. Materials shall be provided to members and posted on the OPDC website in accordance with section (2)(c).
- (e) Conduct of Informational Meetings. Informational Meetings shall be conducted in accordance with sec. (2)(d) with the following exceptions:
 - (i) Action items Commission Members may not make motions calling for votes and may not vote on action items during an Informational Meeting.
- (f) Public input
 - (i) Public input: oral. Members of the public who want to provide oral input are encouraged to register in advance as provided in conjunction with the meeting notice on the OPDC website; at the discretion of the Chair, members of the public who have not registered in advance may be allowed to provide oral input at the meeting.
 - (ii) Public input: written. Members of the public may submit written comments regarding items on the agenda of an upcoming informational meeting. Such written input shall be

submitted no later than two (2) business days after the meeting for which the comment is relevant.

(4) Emergency Meetings.

(a) Authority.

- (i) The Chair may call an emergency meeting only if there is an actual emergency that renders impractical the twenty-four-hour notice required for a special meeting.
- (ii) An emergency is a situation in which adhering to the notice requirements of this Article increases the likelihood or severity of injury or damage to persons or property, immediate financial loss, or disruptions to the provision of public defense services that require an immediate response.

(b) Schedule, Notice and Materials.

- (i) Notice of the meeting, the agenda, and any meeting materials shall be provided to all Members and posted to the public on the OPDC website as early as practicable prior to the meeting.
- (ii) The emergency meeting notice shall state the nature of the emergency and provide, at a minimum, the meeting date, time, place, and (in the event of a virtual meeting) access information. Notice of the meeting shall be posted on the OPDC website as quickly as possible.
- (iii) OPDC staff shall prepare meeting materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.

(c) Agendas.

- (i) Emergency meeting agendas will be finalized by the Executive Director and the Chair of the Commission. Agendas shall be determined with a focus on furthering the Commission’s mission as set out in Art. I of these Bylaws.
- (ii) Items to be voted on at an emergency meeting shall be labeled as action items on the meeting agenda. All action items shall include time for discussion before a vote occurs.
- (iii) OPDC staff shall publish the agenda to Commission Members and the public in conjunction with the notice of the emergency meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.

(d) Conduct of emergency meetings. Emergency meetings shall be conducted in accordance with sec. (2)(d), and the reason for the emergency shall be stated at the outset of the meeting.

(e) Public comment. Members of the public may apply to the Commission for the opportunity to comment in person at an emergency meeting. Such applications must be received by the Commission by two (2) hours prior to the emergency meeting. Members of the public

may submit written comments regarding matters discussed at the emergency prior to the meeting or up to 2 business days from the posted meeting time.

- (5) Executive Sessions.** The Commission may meet in executive session pursuant to ORS 192.660, and the notice and agenda shall state the provision of law authorizing the executive session.

Article 5

SUBCOMMITTEES, AUDIT COMMITTEE, EXTERNAL ADVISORY GROUPS

(1) Subcommittees

- (a) The Commission Chair, in consultation with OPDC staff and Voting and Non-voting Members of the Commission, may create standing or *ad hoc* subcommittees to advise the Commission. The Chair shall put on the record the members of the subcommittee and the nature of the subcommittee's charge.
- (b) A subcommittee must have at least three, but no more than four, Voting Members. The Chair shall appoint subcommittee members and may ask for volunteers from among Voting and Non-voting Members.
- (c) Each subcommittee shall elect a chair to conduct the business of the subcommittee and to report to and consult with the Commission Chair.
- (d) The subcommittee chair may invite Voting and Non-voting Members, OPDC staff, legislators, staff of Oregon executive, judicial and legislative agencies, and members of the public to attend subcommittee meetings in an advisory capacity. Consideration will be given to gathering input from OPDC providers and persons with lived experience in, or communities impacted by, programs under OPDC's jurisdiction.
- (e) Subcommittee meetings.
 - (i) All subcommittee meetings shall comply with public meeting laws pursuant to ORS Chapter 192.
 - (ii) The subcommittee chair may schedule meetings as necessary to accomplish subcommittee business.
 - (iii) Agendas.
 - a. Subcommittee meeting agendas will be finalized by the subcommittee chair with a focus on furthering the Commission's mission as set out in Art. I of these Bylaws.
 - b. By 4 business days prior to a meeting, the subcommittee chair shall create an agenda. Items to be voted on at an upcoming subcommittee meeting shall be labeled as action items on the meeting agenda. At the request of any Voting or Non-voting Member of the subcommittee, up to and including the start of a

meeting, the subcommittee chair may amend the agenda to include an additional non-action item.

- c. OPDC staff shall publish the agenda and meeting materials by 3 business days prior to a meeting unless good cause is shown, as determined by subcommittee chair.

(iv) Materials.

- a. OPDC staff shall publish materials to subcommittee members and the as soon as practicable in advance of the meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.
- b. OPDC staff shall prepare materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.

(v) Conduct of subcommittee meetings.

- a. Subcommittee meetings shall be conducted in accordance with the provisions of Art. 4(2)(d)(i) and (iii)-(iv).
- b. A majority of voting members constitutes a quorum of the subcommittee. A quorum of the subcommittee is required to decide an action item or to deliberate toward making a decision.
- c. Any Voting Member of the subcommittee may make a motion regarding a posted action item. Motions shall be handled in accordance with the provisions of Art. 4(2)(d)(vi) b and c.
- d. Votes shall be handled in accordance with the provisions of Art. 4(2)(d)(vii), with the subcommittee chair assuming the role given the Commission Chair in those provisions.
- e. Meeting records and minutes shall be handled in accordance with the provisions of Art. 4(2)(d)(viii).

(2) **Audit Committee.** OPDC may approve an audit committee charter and audit committee to assist OPDC auditors in their audit function. Any audit committee shall include one Voting Member of the Commission.

(3) **Advisory Committees and Workgroups.**

- (a) The Executive Director may, after consultation with the Chair, create advisory committees and workgroups as needed.
- (b) At the Executive Director’s discretion, advisory committees and workgroups may include Voting and Non-voting Members, OPDC staff, legislators, staff of Oregon executive, judicial and legislative agencies, and members of the public. Consideration will be given to gathering input from OPDC providers and persons with lived experience in, or communities impacted by, programs under OPDC’s jurisdiction.

Article 6

GRIEVANCE PROCEDURE

Persons aggrieved by OPDC actions or inaction should seek redress as follows:

- (1) If the complaint is a consequence of OPDC policy, a letter should be addressed to the Chair of the Commission requesting the complaint to be placed on the Commission’s meeting agenda; subject to the provisions of Art. 4(7)(a), the Chair shall have the sole discretion either to place the item on the agenda of an upcoming meeting or to refer the matter to the Executive Director for investigation.
- (2) If the complaint relates to administrative practices of the OPDC, the complainant should address a letter to the Executive Director of the OPDC; a complainant who is unsatisfied with how the complaint is handled may address a letter to the Chair of the Commission requesting the complaint to be placed on the Commission’s meeting agenda; the Chair shall have the sole discretion either to place the item on the agenda of an upcoming meeting or to refer the matter to the Executive Director to report to the Chair on resolution of the complaint.
- (3) If a Voting or Non-voting Member is approached by an aggrieved person the Member should direct the person to the correct course of action to be pursued; the Member shall not discuss the complaint with the aggrieved person.
- (4) All communications covered by sub-sections (1) through (3) shall be in writing. A Member who is approached by word of mouth shall so inform the aggrieved persons and shall send a memorandum to the Chair identifying the aggrieved persons and indicating the time of the conversation and the instructions conveyed by the Member to the aggrieved person.

Article 7

AMENDMENTS

These bylaws may be amended by a two-thirds vote of the Voting Members at any meeting provided the topic is posted as an action item and the proposed language is provided to all Voting and Non-voting Members one week prior to the meeting.

BYLAWS

Article 1

AGENCY NAME, AUTHORITY, MISSION, AND BASIC DEFINITIONS

- (1) **Name.** The name of this agency is the Oregon Public Defense Commission (“OPDC”).
- (2) **Authority.** The OPDC was established pursuant to ORS 151.213, as amended by SB 337 (2023), effective January 1, 2024. The OPDC is governed by a 13-member commission (“Commission Members”), which includes nine Voting Members and four Non-voting Members.
- (3) **Mission.**
 - (a) The OPDC’s mission is to establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution, Oregon and national standards of justice, and Oregon statutes.
 - (b) To achieve this mission, the Commission Members shall ensure furtherance of the goals articulated in ORS 151.216 by adopting policies, procedures, standards, and guidelines regarding those mandates, including the public defense service delivery model; public defense provider caseload and workload; qualification and performance standards; compensation, fees, expenses, and reimbursement; budget, resources, and funding; training, supervision, and oversight; data collection; and eligibility for court appointed counsel. ~~The Commission strives to work toward criminal, juvenile, and dependency systems that are anti-racist and anti-colonial.~~ The Commission adopts the principles outlined in the Oregon DEI Action Plan [hyperlink] in all areas under its jurisdiction and strives to ensure systems that recognize diversity and afford justice equitably and inclusively to all persons.
 - (c) To further achieve this mission the Commission Members, Executive Director, and OPDC Staff shall consider the perspectives of public defense providers, persons with lived experience in, or from communities impacted by the programs in areas under OPDC’s jurisdiction ~~Oregon’s criminal, juvenile, and dependency systems~~, and other members of the public with an interest in the provision of ~~public defense~~ services provided by those programs.
- (4) **Basic Definitions.** The following definitions govern usage in these Bylaws:
 - (a) “Commission” means Voting and Non-voting Commission Members acting in their oversight capacity.
 - (b) “Staff” means OPDC employees other than the Executive Director.
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- (1) Membership.** Membership is defined by ORS 151.213.
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- (4) Termination.** A Commission Member may be removed pursuant to ORS 151.213(3) and ORS 182.010.
- (5) Resignation.** A Commission Member who seeks to resign shall provide written notice to the appointing authority, the Chair of the OPDC, and the Executive Director.
- (6) Onboarding and Training.** New appointees shall attend an onboarding session as determined by the Executive Director. Members shall attend all trainings as required by Oregon law.
- (7) Chair and Vice Chair.**

 - (a) Voting Members shall elect, by majority vote, a Chair and Vice Chair of the Commission.
 - (b) The Chair is the public liaison of the Commission Members. It shall be the responsibility of the Chair or other person as directed by the Chair to speak on behalf of the Commission Members for official information concerning the OPDC.
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 - (b) A Commission Member has an actual financial conflict of interest if the proposed action would provide a financial benefit or detriment to the Member, the Member’s relative, or any business with which the Member or their relative is associated. When met with an actual conflict of interest, the Member must announce publicly the nature of the conflict and refrain from discussion on the issue. The Member may not vote on the issue from

which the conflict arises unless the Member’s vote is necessary to meet the minimum number of votes required to take official action.

- (c) A Member has a potential conflict of interest if the proposed action could provide a financial benefit or detriment to the Member, the Member’s relative, or any business with which the Member or their relative is associated. When met with a potential conflict of interest, the Member must announce publicly the nature of the conflict but may continue to discuss the issue. The Member may vote on the issue from which the potential conflict arises.

(9) Communications Not Subject to Public Meeting Laws. ~~Ex Parte Contacts. Ex parte contacts are not subject to public meeting laws.~~

- (a) Commission Members may communicate orally or in writing with other Commission Members to the extent that communication does not violate ORS Chapter 192.

(b) Communications with OPDC staff.

- (i) Commission Members may communicate orally or in writing with OPDC staff on non-substantive issues, such as scheduling and IT support.
- (ii) When acting in an oversight capacity Commission Members should not communicate orally or in writing with OPDC staff members regarding agency business without prior authorization from the Executive Director. The Executive Director **or designee** shall communicate such authorization in writing **to the staff member and the Commission Member**, including by email.
- (iii) Individual Commission Members, in their personal capacities, may communicate orally or in writing with OPDC staff members; when doing so they shall make it clear that they do not speak for the Commission.
- (iv) **Nothing in this section is meant to prohibit OPDC staff members from disclosing to Commission Members information the staff member reasonably believes to be evidence of a violation of any federal, state, or local law, rule, or regulation or mismanagement, gross waste of funds, or abuse of authority, or substantial and specific danger to public health and safety resulting from OPDC action.**

(10) Compensation and Expenses.

- (a) Voting and Non-voting Members are entitled to compensation and expenses as provided in ORS 151.213(8) and ORS 292.495.
- (b) Members entitled to compensation shall submit the information required by standards and procedures adopted by the Executive Director.
- (c) **Indemnification.** OPDC Commission Members, officers, employees, and agents shall be indemnified in the manner provided by ORS 30.285.

Article 3

ROLES AND RESPONSIBILITIES GENERALLY

(1) Commission Members. Commission Members are responsible for governing and providing oversight to the OPDC, pursuant to the requirement of ORS 151.213 and 151.216.

(a) Commission Members shall:

- (i) Review, and provide input prior to an approval vote, the policies, procedures, standards, and guidelines required by ORS 151.216 regarding contracting, funding, compensation of counsel, resources, operations, caseloads and statewide workloads, data collection, training and supervision of appointed counsel, costs, overhead, pre-authorization requirements, financial eligibility of represented persons with appointed counsel, compensation plans, classification systems, and affirmative action plans.
- (ii) Review the budget of the Commission and provide input before any approval vote;
- (iii) Review the Commission’s annual report prior to the vote by Voting Members;
- (iv) Meet as needed to carry out their responsibilities.
- (v) Inform the Executive Director and the Chair as soon as practicable of an inability to attend a scheduled, special, or emergency meeting. ~~The Chair shall indicate, either before or after the relevant meeting, whether the absence is excused or not excused and may provide input on absences to the appointing authority.~~ The Chair shall maintain a record of absences and any stated reasons for such absences and may communicate the information to the appointing authority.

(b) Voting Commission Members shall:

- (i) Approve by majority vote the policies, procedures, standards, and guidelines required by ORS 151.216 before they take effect;
- (ii) Approve by majority vote the budget of the Commission before submission to the Legislative Assembly;
- (iii) Set **biennial** performance expectations for the Executive Director and require a performance review at least every two years in September **in the odd numbered years** based on those expectations. The performance review may include recommendations.
- (iv) Approve by majority vote the Commission’s annual report prior to its submission pursuant to ORS 151.219.

(c) Commission Members shall not make any decision regarding the handling of any individual case; have access to any case file or interfere with the Executive Director or OPDC staff in carrying out professional duties involving the legal representation of public defense clients.

- (d) Individual Commission Members, in their personal capacities, may advocate for or against legislation before the Legislative Assembly; when doing so they shall make it clear that they do not speak for the Commission.
- (e) Individual Commission Members may, in their personal capacities, communicate with the press, members of the public, or both; when doing so Members shall make it clear that they do not speak for the Commission. An individual Commission Member may not act as spokesperson for the Commission unless authorized to do so in writing by the Chair.

(2) Executive Director.

- (a) The Executive Director is the chief executive officer for the Commission, the public liaison for OPDC, and the primary liaison between the Commission Members (voting and non-voting) and OPDC staff. The Executive Director shall ensure the agency carries out the policy directives established by the Commission.
- (b) The Executive Director is appointed and retained as provided by ORS 151.213.
- (c) The Executive Director of the Commission shall carry out the duties set out in ORS 151.219.
- (d) The Executive Director shall prepare an annual report covering the topics listed in Art. 3(1)(a)(i) and (ii) and submit it by December 31 of the calendar year as required by ORS 151.219 .

(3) OPDC Staff.

- (a) OPDC staff is responsible for agency administration and operations, and it performs its actions through the authority of its Executive Director, as defined by ORS 151.219.
- (b) OPDC staff shall carry out the duties set out in ORS 151.216.
- (c) OPDC auditors shall present an internal audit report to the Commission at least yearly.

Article 4

MEETINGS

(1) Public Meeting Laws. All meetings and executive sessions shall comply with public meeting laws pursuant to ORS Chapter 192.

(2) Regular Meetings.

- (a) Schedule and Notice. Commission Members shall meet according to a regular schedule, established at the first meeting of each calendar year and adjusted as necessary throughout the year. Notice of meetings shall be given to Members and posted on the OPDC website as early as practicable.
- (b) Agendas.

- (i) Regular Commission meeting agendas will be finalized by the Executive Director and the Chair of the Commission. Agendas shall be determined with a focus on furthering the Commission’s mission as set out in Art. I of these Bylaws.
- (ii) Any Voting or Non-voting Member of the Commission may request the Chair to include an item on the agenda of an upcoming meeting no later than 10 business days prior to the meeting. If the item does not appear on the agenda, a majority of Voting Members may place the item on the agenda for the subsequent meeting.
- (iii) Items to be voted on at an upcoming meeting shall be labeled as action items on the meeting agenda. All action items shall include time for discussion before a vote occurs.
- (iv) OPDC staff shall publish the agenda to Commission Members and the public one week in advance of the meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.
- (v) The Executive Director and the Chair, in agreement, may amend the agenda up until the start of the meeting. No action items may be added within one week of the meeting.

(c) Materials.

- (i) OPDC staff shall publish materials to Commission Members and the public one week in advance of the meeting in which they are to be considered unless good cause is shown, as jointly determined by the Executive Director and the Chair.
- (ii) OPDC staff shall prepare meeting materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.

(d) Conduct of Regular Meetings.

- (i) The Commission may conduct meetings in-person, virtually, or through a combination of in-person and virtual attendance. All meetings shall afford the public the opportunity to access and attend the meeting virtually.
- (ii) A majority of Voting Members constitutes a quorum of the Commission for the transaction of business at regular commission meetings. A quorum of the Commission is required to **decide an action item and to deliberate on or discuss items that are likely to come before the Commission as an action item. A quorum is not required to receive testimony and similar input from staff or stakeholders and to ask questions of the person presenting.** ~~conduct a meeting. If the Commission loses a quorum during a meeting, the meeting shall adjourn. the discussion will continue and will be~~
- (iii) Virtual meetings: cameras and identification. To ensure accurate assessment of a quorum during virtual meetings, Commission Members shall have their names posted and, to the extent practicable, their cameras on. All Voting Members shall have cameras on during a vote. Commission staff shall have names posted but may turn cameras off.

- (iv) The Commission will not use Robert’s Rules of Order in conducting a meeting but will follow the procedural rules set out in these bylaws.
- (v) The Chair shall lead and manage the meeting, or the Vice-chair in the Chair’s absence. Public comment may be allowed and shall be posted on the agenda when authorized. Deliberation of issues will be conducted only by Commission Members, but the Commission may authorize OPDC staff or members of the public to provide information on any topic.
- (vi) Motions.
 - a. Any Voting Member of the Commission may make a motion regarding a posted action item, and that motion must receive the endorsement of a second Voting Member of the Commission before a vote can occur.
 - b. Once a motion has been made and received an endorsement from a second Voting Member, there shall be a period for discussion.
 - c. Following the discussion, the motion must be voted upon unless (1) the Member who made the motion withdraws the motion, or (2) the Member who provided the second endorsement withdraws that endorsement and the motion fails to get another second endorsement.
- (vii) Voting.
 - a. Commission Members must be present to vote.
 - b. Commission Members must vote yea or nay, as no abstentions are allowed. Voting Members may explain on the record their reasons for a yea or nay vote or for asserting a conflict of interest.
 - c. At a virtual meeting, or if any Voting Member is attending virtually, the Chair shall conduct a roll-call vote. If all Voting Members who are attending are in person, the Chair shall inquire whether there are any objections to adopting the motion under consideration. If no objections are made, the motion will pass, and it will be recorded as endorsed by all Voting Members present. If any Member of the OPDC objects to the motion, a roll call vote will be held.
- (viii) Meeting Records and Minutes. All meeting materials, minutes, transcripts, and public comment shall be stored by OPDC and placed on the OPDC website for public access [as soon as practicable.](#) [A link to the meeting video shall be published on the website within five days after the meeting.](#)
- (ix) OPDC staff shall provide and publish one or more mechanisms whereby persons requiring reasonable accommodations to fully participate in a meeting may request such accommodations no later than the close of business 48 hours prior to the meeting. OPDC staff shall take all reasonable steps to ensure that such accommodations are provided.

~~No Commission action can be taken unless the proposed topic is published on the agenda as an action item. A quorum of the Voting Members of the Commission is required to endorse an action item.~~

(e) Public Comment.

- (i) Oral. Members of the public may apply to the Commission for the opportunity to comment in person at Commission meetings. Such applications must be received by the Commission by the close of business the business day prior to the date scheduled for the meeting. The Chair shall allow all reasonable requests for public comment. Public comment shall be limited to 3 minutes unless, in the Chair’s sole discretion, more time is allowed.
- (ii) Written. Members of the public may submit written comments regarding items on the agenda of upcoming meetings.
- (iii) Comment regarding action items shall be submitted no later than two (2) business days prior to the meeting at which the item is to be considered.
- (iv) Submissions received by the close of business two (2) business days in advance of the meeting in which they are to be considered shall be submitted to Voting and Non-voting Members and posted to the public on the OPDC website prior to the meeting.
- (v) Submissions received after a meeting and within 48 2 business days hours from the posted meeting time. ~~Submissions received after that time~~ shall be submitted to Voting and Non-voting Members and posted to the public on the OPDC website ~~as soon as practicable~~ practicable after the close of the meeting; in addition, such comments shall be included in the material for the subsequent OPDC regular meeting.

(3) **Special Informational Meetings.**

- (a) Authority. The Chair of the Commission may call special meetings of the Commission to gather information relevant to its mission. These may include ~~special~~ meetings dedicated to gathering input from members of the public, including those with lived experience in, or from communities impacted by the systems under the Commission’s jurisdiction with regards to specific issues or regions of the State.
- (b) Schedule and Notice. Notice of informational meetings shall be given to Members and posted on the OPDC website as early as practicable.
- (c) Agendas. Agendas shall be prepared in accordance with sec. (2)(b) except that the agenda may not contain any action items.

~~No informational meeting shall be held without the notice, agenda, and materials provided at least twenty four (24) hours prior to the meeting. Such notice shall be provided to all Members and shall be posted to the public on the OPDC website.~~

- (d) Materials. Materials shall be provided to members and posted on the OPDC website in accordance with section (2)(c).

(e) Conduct of Informational Meetings. Informational Meetings shall be conducted in accordance with sec. (2)(d) with the following exceptions:

(i) Action items Commission Members may not make motions calling for votes and may not vote on action items during an Informational Meeting.

(f) Public input

(i) Public input: oral. Members of the public who want to provide oral input are encouraged to register in advance as provided in conjunction with the meeting notice on the OPDC website; at the discretion of the Chair, members of the public who have not registered in advance may be allowed to provide oral input at the meeting.

(ii) Public input: written. Members of the public may submit written comments regarding items on the agenda of an upcoming informational meeting. Such written input shall be submitted no later than two (2) business days after the meeting for which the comment is relevant.

(4) Emergency Meetings.

(a) Authority.

(i) The Chair may call an emergency meeting only if there is an actual emergency that renders impractical the twenty-four-hour notice required for a special meeting.

(ii) An emergency is a situation in which adhering to the notice requirements of this Article increases the likelihood or severity of injury or damage to persons or property, immediate financial loss, or disruptions to the provision of public defense services that require an immediate response.

(b) Schedule, Notice and Materials.

(i) Notice of the meeting, the agenda, and any meeting materials shall be provided to all Members and posted to the public on the OPDC website as early as practicable prior to the meeting.

(ii) The emergency meeting notice shall state the nature of the emergency and provide, at a minimum, the meeting date, time, place, and (in the event of a virtual meeting) access information. Notice of the meeting shall be posted on the OPDC website as quickly as possible.

(iii) OPDC staff shall prepare meeting materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.

(c) Agendas.

(i) Emergency meeting agendas will be finalized by the Executive Director and the Chair of the Commission. Agendas shall be determined with a focus on furthering the Commission's mission as set out in Art. I of these Bylaws.

- (ii) Items to be voted on at an emergency meeting shall be labeled as action items on the meeting agenda. All action items shall include time for discussion before a vote occurs.
 - (iii) OPDC staff shall publish the agenda to Commission Members and the public in conjunction with the notice of the emergency meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.
 - (d) Conduct of emergency meetings. ~~The emergency meeting shall be conducted in accordance with other provisions of this Article,~~ Emergency meetings shall be conducted in accordance with sec. (2)(d), and the reason for the emergency shall be stated at the outset of the meeting.
 - (e) Public comment. Members of the public may apply to the Commission for the opportunity to comment in person at an emergency meeting. Such applications must be received by the Commission by two (2) hours prior to the emergency meeting. Members of the public may submit written comments regarding matters discussed at the emergency prior to the meeting or up to 2 business days from the posted meeting time.
- (5) **Executive Sessions.** The Commission may meet in executive session pursuant to ORS 192.660, and the notice and agenda shall state the provision of law authorizing the executive session.

Article 5

SUBCOMMITTEES, AUDIT COMMITTEE, EXTERNAL ADVISORY GROUPS

(1) **Subcommittees**

- (a) The Commission Chair, in consultation with OPDC staff and Voting and Non-voting Members of the Commission, may create standing or *ad hoc* subcommittees to advise the Commission. The Chair shall put on the record the members of the subcommittee and the nature of the subcommittee's charge.
- (b) A subcommittee must have at least three, but no more than four, Voting Members. The Chair shall appoint subcommittee members and may ask for volunteers from among Voting and Non-voting Members.
- (c) Each subcommittee shall elect a chair to conduct the business of the subcommittee and to report to and consult with the Commission Chair.
- (d) The subcommittee chair may invite Voting and Non-voting Members, OPDC staff, legislators, staff of Oregon executive, judicial and legislative agencies, and members of the public to attend subcommittee meetings in an advisory capacity. Consideration will be given to gathering input from ~~public defense~~ OPDC providers and persons with lived experience in, or communities impacted by, programs under OPDC's jurisdiction. ~~Oregon's criminal, juvenile, and dependency systems.~~
- (e) Subcommittee meetings.

- (i) All subcommittee meetings shall comply with public meeting laws pursuant to ORS Chapter 192.
- (ii) The subcommittee chair may schedule meetings as necessary to accomplish subcommittee business.
- (iii) Agendas.
 - a. Subcommittee meeting agendas will be finalized by the subcommittee chair with a focus on furthering the Commission’s mission as set out in Art. I of these Bylaws.
 - b. By 4 business days prior to a meeting, the subcommittee chair shall create an agenda. Items to be voted on at an upcoming subcommittee meeting shall be labeled as action items on the meeting agenda. At the request of any Voting or Non-voting Member of the subcommittee, up to and including the start of a meeting, the subcommittee chair may amend the agenda to include an additional non-action item.
 - c. OPDC staff shall publish the agenda and meeting materials by 3 business days prior to a meeting unless good cause is shown, as determined by subcommittee chair.

(iv) Materials.

- a. OPDC staff shall publish materials to subcommittee members and the as soon as practicable in advance of the meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.
- b. OPDC staff shall prepare materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.

(v) Conduct of subcommittee meetings.

- a. Subcommittee meetings shall be conducted in accordance with the provisions of Art. 4(2)(d)(i) and (iii)-(iv).
- b. A majority of voting members constitutes a quorum of the subcommittee. A quorum of the subcommittee is required to decide an action item or to deliberate toward making a decision.
- c. Any Voting Member of the subcommittee may make a motion regarding a posted action item. Motions shall be handled in accordance with the provisions of Art. 4(2)(d)(vi) b and c.
- d. Votes shall be handled in accordance with the provisions of Art. 4(2)(d)(vii), with the subcommittee chair assuming the role given the Commission Chair in those provisions.

- e. Meeting records and minutes shall be handled in accordance with the provisions of Art. 4(2)(d)(viii).

~~Meetings of subcommittees must comply with ORS Chapter 192 and with the provisions of Art. 4 sections (6), (7)(d), and (8)(a)-(e) of these Bylaws.~~

- (2) **Audit Committee.** OPDC may approve an audit committee charter and audit committee to assist OPDC auditors in their audit function. Any audit committee shall include one Voting Member of the Commission.

(3) **Advisory Committees and Workgroups.**

- (a) The Executive Director may, after consultation with the Chair, create advisory committees and workgroups as needed.
- (b) At the Executive Director’s discretion, advisory committees and workgroups may include Voting and Non-voting Members, OPDC staff, legislators, staff of Oregon executive, judicial and legislative agencies, and members of the public. Consideration will be given to gathering input from ~~public defense~~ OPDC providers and persons with lived experience in, or communities impacted by, ~~programs under OPDC’s jurisdiction. Oregon’s criminal, juvenile, and dependency systems.~~

Article 6

GRIEVANCE PROCEDURE

Persons aggrieved by OPDC actions or inaction should seek redress as follows:

- (1) If the complaint is a consequence of OPDC policy, a letter should be addressed to the Chair of the Commission requesting the complaint to be placed on the Commission’s meeting agenda; subject to the provisions of Art. 4(7)(a), the Chair shall have the sole discretion either to place the item on the agenda of an upcoming meeting or to refer the matter to the Executive Director for investigation.
- (2) If the complaint relates to administrative practices of the OPDC, the complainant should address a letter to the Executive Director of the OPDC; a complainant who is unsatisfied with how the complaint is handled may address a letter to the Chair of the Commission requesting the complaint to be placed on the Commission’s meeting agenda; the Chair shall have the sole discretion either to place the item on the agenda of an upcoming meeting or to refer the matter to the Executive Director to report to the Chair on resolution of the complaint.
- (3) If a Voting or Non-voting Member is approached by an aggrieved person the Member should direct the person to the correct course of action to be pursued; the Member shall not discuss the complaint with the aggrieved person.
- (4) All communications covered by sub-sections (1) through (3) shall be in writing. A Member who is approached by word of mouth shall so inform the aggrieved persons and shall send a memorandum to the Chair identifying the aggrieved persons and indicating the time of the conversation and the instructions conveyed by the Member to the aggrieved person.

Article 7

AMENDMENTS

These bylaws may be amended by a two-thirds vote of the Voting Members at any meeting provided the topic is posted as an action item and the proposed language is provided to all Voting and Non-voting Members one week prior to the meeting.

APPENDIX A: ORS 659A.203

(1) Subject to ORS 659A.206, except as provided in ORS 659A.200 to 659A.224, it is an unlawful employment practice for any public or nonprofit employer to:

(a) Prohibit any employee from discussing, either specifically or generally with any member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision in the state or any elected auditor of a city, county or metropolitan service district, the activities of:

(A) The state or any agency of or political subdivision in the state; or

(B) Any person authorized to act on behalf of the state or any agency of or political subdivision in the state.

(b) Prohibit any employee from disclosing, or take or threaten to take disciplinary action against an employee for the disclosure of any information that the employee reasonably believes is evidence of:

(A) A violation of any federal, state or local law, rule or regulation by the public or nonprofit employer;

(B) Mismanagement, gross waste of funds or abuse of authority or substantial and specific danger to public health and safety resulting from action of the public or nonprofit employer; or

(C) Subject to ORS 659A.212(2), the fact that a person receiving services, benefits or assistance from the state or agency or subdivision, is subject to a felony or misdemeanor warrant for arrest issued by this state, any other state, the federal government, or any territory, commonwealth or governmental instrumentality of the United States.

(c) Require any employee to give notice prior to making any disclosure or engaging in discussion described in this section, except as allowed in ORS 659A.206(1).

(d) Discourage, restrain, dissuade, coerce, prevent or otherwise interfere with disclosure or discussions described in this section.

(2) A public or nonprofit employer may not invoke or impose any disciplinary action against an employee for employee activity described in subsection (1) of this section or ORS 659A.212.

(3) It is an unlawful employment practice for any school services employer to invoke or impose any disciplinary action against a school services employee for reporting or filing a complaint alleging a violation of any law, regulation or standard pertaining to the COVID-19 pandemic.

(4) The remedies provided by this section are in addition to any remedy provided to an employee under ORS 659A.199 or other remedy that may be available to an employee for the conduct alleged as a violation of this section

(5) A violation of this section is a Class A misdemeanor.

APPENDIX B

Public Defense Services Commission AUDIT COMMITTEE CHARTER

Adopted: December 5, 2022

This document describes the authority, responsibilities, and structure of the Audit Committee (Committee), a Subcommittee of the Public Defense Services Commission (Commission).

A. Purposes

The Committee provides governance and oversight of Internal Auditing for the Commission and the Commission's Office of Public Defense Services (OPDS). 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 processes. The Committee, in consultation with the Chief Audit Executive and OPDS executive leadership, sets the priorities of the Internal Audit function, promotes a strong internal control environment, and evaluates the adequacy of Management's responses to risks or weaknesses identified through audits, reviews, or other processes, including those performed by external parties. Committee Members are also involved in appraising the value of, and assuring the sufficient funding of, the Internal Audit function. The Committee shares the Commission's equity values, which inform the Committee's decisions.

B. Authority

In accordance with HB 5030 (2021), the Commission delegates authority to the Committee for accomplishing the duties set forth below. This structure mirrors executive branch Administrative Rules, internal audit professional *Standards*, and best-practices, which specify the audit committee as the governance body to which the Internal Audit function reports.

C. Duties

The Committee generally shall ensure the integrity and effectiveness of the Internal Audit function, and enhance the quality and independence of both external and internal audits. The Internal Audit function reports functionally to the Committee. In this role the Committee and its members shall:

- Assure the independence of the Internal Audit function, and annually obtain from the Chief Audit Executive: a statement of Code of Ethics compliance and disclosures of actual or perceived conflicts of interest;
- Provide input on risk assessments, which form the basis of the Internal Audit Plan;
- Provide input to, and approve, the Internal Audit Plan, which sets out goals, objectives, and a three-year work schedule;
- Receive internal and external audit reports. Evaluate audit findings, recommendations, and auditees' proposed mitigations in the context of the Commission's risk tolerance;
- Assure follow-up on 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;
- Advise Management, the Chief Audit Executive, and/or the Commission, as appropriate if, in the judgment of the Committee, Management is assuming an unreasonable level of risk;
- Be informed by the Chief Audit Executive, in writing, of scope or resource limitations placed on the Internal Audit function;
- Receive and review the Internal Audit annual report that is prepared for the Oregon Department

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- of Administrative Services;
- At least annually report to the Commission on Committee activities;

- Obtain from the Chief Audit Executive an annual report on compliance with auditing *Standards* and any challenges in meeting these *Standards*.
- Monitor, and recommend actions to improve, the quality of the Internal Audit function;
- Participate in the performance appraisal of the Chief Audit Executive;
- Provide input on the Commission's requests for audits to be performed by the Secretary of State Audits Division or other independent consultants;
- 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;
- 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;
- Obtain periodic external peer reviews of the Internal Audit function (external Quality Assurance Reviews) that are required by Oregon Administrative Rules and audit *Standards*. Receive reports of external reviews, and direct changes and improvements recommended therein;
- Annually review and approve the charters of the Committee and of the Internal Audit function;
- Be advised by OPDS Management of the imminent appointment or dismissal of the Chief Audit Executive before such action becomes effective. Objections, if any, of such actions will be made part of the Committee minutes and forwarded to Management and the Commission;
- Consider the effectiveness and adequacy of, and compliance with, financial and programmatic internal control systems, including information technology security and control;
- 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. Review significant accounting and reporting issues, including those related to complex or unusual transactions, highly judgmental areas, and recent professional and regulatory pronouncements;
- Review with Management, and the Secretary of State Audits Division financial auditors, the results of the Audits Division's annual financial statement audit, including any difficulties encountered.
- Maintain the confidentiality of communications and deliberations.

D. Composition

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

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

Diversity and equity 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.

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 OPDS 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 decision, to be ratified by the Commission.

OPDS managers and Commission Committee Members may serve for as long as they hold their positions. External Members are appointed for two-year terms, but with Committee approval may serve consecutive terms with no specified limit. However, the Chairperson will monitor turnover and take steps to bring in new 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.

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. Robert's Rules of Order shall guide proceedings. Should any action come before the Committee which requires a vote, and a Committee member has an actual or perceived conflict of interest, that member shall declare the conflict and refrain from voting on the action.

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. Standing presentation and discussion of the state of OPDS operations and finances will be led by OPDS Management. The Committee may also invite guests, such as Secretary of State Audit Division managers, other OPDS 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 Commission and OPDS managers. 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 Audits Division will be invited to a meeting, during which time shall be set aside for meeting with external Committee Members absent the Commission member, OPDS management, and the Chief Audit Executive.

OPDS Management will provide support staff to attend Committee meetings and prepare written minutes. The support staff will forward an electronic version of the minutes to the Chair and the Chief Audit Executive, who will distribute them along with any other material for review to Committee

A

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 OPDS management.

END

APPENDIX C: Summary Comparison - types of meetings

All are in Art. 4	Regular Mtgs 4(2)	Informational 4(3)	Emergency 4(4)
Authority		(a)	(a)
Schedule & Notice	(a) <ul style="list-style-type: none"> Regular & as necessary Notice as early as practicable 	(b) <ul style="list-style-type: none"> Chair may call notice as early as practicable 	(b) & (c)
Agendas	(b) <ul style="list-style-type: none"> Request item: 10 days Publish 1 week ahead Amend @ mtg start 	(c) <ul style="list-style-type: none"> ~ (2)(b) but no action items. 	
Materials	(c) <ul style="list-style-type: none"> Publish 1 week ahead Plain English etc. 	(d) <ul style="list-style-type: none"> ~ (2)() 	
Conduct of Meetings	(d)	(e) <ul style="list-style-type: none"> ~(2)(d) w/ exceptions: <ul style="list-style-type: none"> No motions, action items/voting 2 types of public input 	(d) <ul style="list-style-type: none"> ~2(d) + reason for emergency stated
How meet	(d)(i)		
when quorum required	(d)(ii) <ul style="list-style-type: none"> Action item Deliberate/discuss 		
Cameras/ID	(d)(iii)		
No Robert's rules	(d)(iv)		
Chair leads	(d)(v)		
Motions	(d)(vi) <ul style="list-style-type: none"> Any Voting Member Subsequent procedure 		
Voting	(d)(vii) <ul style="list-style-type: none"> Must be present etc. 		
Records/minutes	(d)(viii) <ul style="list-style-type: none"> As soon as practicable 		
Accommodations	(d)(ix)		
Public input	(e) <ul style="list-style-type: none"> oral: apply by COB day prior written: 2 business days prior or within 2 business days after 	(3)(f) <ul style="list-style-type: none"> oral: register in advance or request at meeting written: w/in 2 bus days after 	(4)(e) <ul style="list-style-type: none"> oral: apply up to 2 hrs before meeting written: prior or up to 2 business days after

Public Comment

March 20-21, 2024



OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION

101 E. 14th Ave Eugene, Oregon 97401 T 541.686.8716 F 541.686.2319 www.ocdla.org info@ocdla.org

March 21, 2024 Written Testimony for OPDC Retreat

Dear Chair Nash and Members of the Commission,

I have three topics:

- 1) As someone who served 16 years on the Oregon Public Defense Services Commission, 15 as vice-chair and one year as chair, I want to say, "thank you." Thank you, Chair Nash, for continuing as chair of the commission. Thank you commissioners for accepting the challenge of further advancing public defense in Oregon, a unique jurisdiction where one size does not fit all.
- 2) I want to report on the success of the Trial Skills College held in January of this year at Lewis & Clark School of Law. This Trial Skills College was a collaboration between OPDS and OCDLA for the participants in the Gideon's Promise bootcamp held in September 2023. OCDLA's Trial Skills College is an intensive two-and-a-half-day workshop, with lectures, small group practice and video review on topics including: closing argument, voir dire, and cross-examination. Lawyer instructors volunteer their time and return year after year because it's gratifying to watch students progress and learn something from them too. Many thanks to Joanna Perini-Abbott and her team at Lewis & Clark School who helped tremendously with logistics (reserving rooms, parking, audio visual and food). Sincere thanks also to K.O. Berger of OPDC who shepherded this event. OCDLA hopes to partner with OPDC again for another Trial Skills College, albeit on less of a tight timeline.
- 3) And to the future. In addition to collaborating with OPDC on in-person trainings and webinars, OCDLA can help with the Access to Justice crisis through other educational projects.

OCDLA's Library of Defense is a web-based platform that includes caselaw, procedure and strategy on a myriad of topics in criminal and juvenile defense. We want OPDC financial assistance to keep the Library of Defense current. The Library of Defense doesn't have all the answers, but it has information on many common legal questions and can save lawyers research time or having to "reinvent the wheel." And, while we would love everyone to be an OCDLA member, OCDLA can set up a non-member log-in to Library of Defense for public defense providers.

OCDLA also has Books Online subscription service. This service provides electronic access to 10 of OCDLA's essential manuals. All 10 manuals can be accessed online and are searchable. Updates to manuals are included in Books Online first, and at no additional charge. Subscriptions are annual, starting from the date of purchase. Again, public defense subscribers would not be required to be OCDLA members. The website includes a tutorial training and OCDLA can also host quarterly follow ups to provide updates and changes.

OCDLA is offering OPDC universal access to 10 OCDLA manuals¹ (including

¹ The other seven manuals are: Defending Sex Cases, Investigators Manual, Mental Health and Criminal Defense, Post Judgment Manual, Scientific Evidence, The Trial Notebook and Still at War: A

DIRECTORS

Kati Dunn
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Michael Berthoff
Medford

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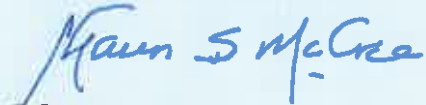
Alene Sybrant
info@ocdla.org

OCDLA

Felony Sentencing Guidelines, Search & Seizure and DUII) for all OPDC attorneys with at least .5 FTE for a lump sum of \$230 each, per biennium. I ask that within the next two weeks members of the OPDC executive team meet with me to discuss costs and access conditions to develop a plan to present to the Commission for its consideration.

OCDLA has the infrastructure, the experience and the ability to partner with OPDC to provide important education and training for our public defense providers. We also have a strong desire to do so.

Respectfully submitted,



OCDLA
Shaun S. McCrea
Executive Director

From: [Olcott Thompson](#)
To: [OPDS info](#)
Subject: Meeting comments
Date: Friday, March 22, 2024 2:11:53 PM

Here is what I was prepared to say to the Commission this morning if I had had more time slightly edited. Thank you for allowing me to speak and for considering this and the prior written comments I provided.

Thank you,

Olcott Thompson

--
Olcott Thompson
Exec Dir
MCAD

Chair Nash, members of the Commission:

I am Olcott Thompson. I am the Executive Director of the Marion County Association of Defenders, MCAD, the consortium in Marion County which is doing the majority of the work in Marion County even though the Public Defender's office is funded to do the majority of the work.

I submitted written comments which I hope you received that outline some of the issues we are facing in Marion County.

A few things I want to highlight.

The agency has made it virtually impossible to add capability/new attorneys. We cannot get commitments from them for anything. We have been waiting since early February for approval for two new attorneys with the only response is wait. We receive no details and no indication of anything but wait. Responses are only after we ask, nothing proactive.

At one point I did find out the agency is looking at requests on some sort of rolling basis but that is all.

We now have another attorney who is lesser felony qualified ready to start April 1 but the only response is we will get back to you.

We also have two third year law students ready to join once they are admitted to the bar and are misdemeanor qualified. No question the agency cannot provide a firm yes until then but we must wait until they are bar members and misdemeanor qualified to even ask for funding. Why must we wait until then to even ask. The agency could say yes we will fund if they are

bar members and misdemeanor qualified as of October 1.

On Saturday we are interviewing a person who will be misdemeanor qualified. At this point what do we say to her – sorry we wasted your time, we are not allowed to let you do this work.

All but the lesser felony qualified attorney are new providers, all of them are adding capacity not just moving capacity from one provider to another. The lesser felony qualified lawyer will be also adding capacity because all his prior cases have been absorbed by other lawyers.

As I noted in my written comments, the agency can say yes and move money from one budget category to another. It can make commitments to fund if someone is added within a specific period of time. At the least the agency can be is open about the process and work to increase the number of attorneys by actually working with the contracted providers.

Regarding retention you need to “reward” and incentive the retention of lawyers, not just the number of filled positions especially when the agency won’t allow the number of attorneys to be increased. MCAD has retained almost all of its attorneys since July 1, 2023. The Marion County Public Defender’s Office has lost about half their attorneys yet under the proposed retention policy the PD’s office will likely receive more retention money because they have hired a number of new attorneys.

Finally, if the comment on the OCDLA pond “I have spoken with members of the OPDC commission and have effectively been told the commissioners can do nothing and that OPDS will move at its own pace regarding payments and authorizations,” reflects the view of the commission why are we here. Why are you wasting your time.

Either you set policies and hold the agency accountable through its Executive Director as is in your proposed by laws or you are just wasting everyone’s time.

What do you expect will happen if you require monthly billings when the agency cannot, will not, timely pay providers now. The end result will be further frustration and fewer people willing to do this work.

It is your choice, you can allow the agency to chose the most expensive options and drive people away or you can put in place policies that accomplish adding more providers and retaining them at less cost.

**Oregon Public Defense Commission
Pre-Authorized Expense Authorization**

Authorization No: **425275**
Authorization Date: **2/21/2024**
Processed Date: 2/27/2024 01:54 PM
Kristen McClelland

CONFIDENTIAL - Not to be released outside OPDC or named provider absent authorization from the assigned attorney

Provider **Court Discovery Management/Russ Bretan**

Authorization for: **other/web hosting/Box**

Client: **Kenneth Wayne Atkinson** Case #: **21CR48062** County: **Deschutes** Case Type: **MUR1**

Attorney: **Robert Glenn Crow** Services/expenses prior to **2/21/2024** will not be paid.

Total Authorized Costs: **\$1,200.00** Est. Travel Costs: **\$0.00** Misc. (non out-of-pocket) Costs: **\$0.00**

Authorized Service Amount Not to Exceed : **\$1,200.00** Approved Rate: **\$200.00** Maximum Quantity: **6**

Unless otherwise specified, this authorization expires on: 8/19/2024

Notes:

SUBMIT THIS ENTIRE FORM WITH YOUR ONLINE INVOICE.

Invoices are submitted online: <https://www.oregon.gov/opdc/provider/Pages/invoice-submission.aspx>

ORIGINAL ITEMIZED RECEIPTS must be submitted with the invoice in order to receive reimbursement for certain expenses. Credit card receipts showing only the total amount charged will not be accepted. See payment policy at www.oregon.gov/OPDC.

This authorization covers all the client's pending cases in the county to which the above attorney is appointed.

Email billing questions to: accountspayable@opds.state.or.us

Email amendments requests to: CSS@opds.state.or.us

Include the authorization number in your email subject line and explain what needs to be amended.

Name: [REDACTED]
From: [REDACTED]
To: [REDACTED]
Date: Fri, 16 Mar 2018 13:08:06 -07

[Doesn't appear to have been sent from [REDACTED]. Learn why this is important at [https://aka.ms/why-is-this-important](#)]

This is a private e-mail address. The PRDC Board considering when they can meet.

Steve Reichman
(503) 436-2382

----- Original Message -----
Subject: Re: [PRDC] Resolution 03/08/18

From: [REDACTED]
To: [REDACTED]
Cc: Rebecca Schlegel <rschlegel@pdxwaterj.com>

Hi, Mike & Kelly (and anyone else at PRDC)

How is this resolution acceptable to PRDC? Do you anticipate that our clients (other than myself) or us (whether there are further offers of water) will be affected by this resolution? Do you think it will be acceptable to our clients or to us?

How do you intend to handle the Resolution regarding "additional income" provided to us? Do you intend to provide additional information to the PRDC? Do you intend to provide additional information to the PRDC? Do you intend to provide additional information to the PRDC?

It is as though PRDC believes our work should be treated as additional income, and our representation of clients is of secondary importance and value.

Do not doubt that the central focus of your office (the PRDC) is to provide a platform for the PRDC. However, the PRDC is not a public utility and does not have the same obligations as a public utility. The PRDC is not a public utility and does not have the same obligations as a public utility.

Please notify your representatives positions and other information that is just not being shared from.

Steve Reichman
(503) 436-2382

On 2/24/18 07:15:11, Rebecca Schlegel wrote:

Rebecca Schlegel
503-436-2382

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Subject: [PRDC] Resolution 03/08/18

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]

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Subject: [PRDC] Resolution 03/08/18



Defense Investigators of Oregon
1100 NE 28th Avenue
Suite 105
Portland, OR 97232

Executive Director Jessica Kampfe
Oregon Public Defense Commission
198 Commercial St NE
Salem, OR 97301

Dear Executive Director Kampfe,

We are writing to you as the Defense Investigators of Oregon, a Contractor Union of investigators who provide services to indigent defendants in Oregon. We appreciate your invitation for input to the changes to your payment policy, and we would like to share our suggestions and concerns with you.

We have reviewed the current payment policy and identified several sections that we believe need to be revised or clarified. We have attached a document that outlines our requests for changes to the policy, along with our reasoning and examples. We hope that you will consider our feedback and incorporate it into the updated policy.

Our requests for changes are as follows:

- Section 3.21 - Travel expenses: We request that the limit for preauthorization of out-of-state travel and mileage be increased from 100 miles to 200 miles. This will allow us to conduct more thorough and efficient investigations in cases that involve out-of-state witnesses or evidence. The current limit is too restrictive and does not account for the geographic diversity of Oregon and the neighboring states. We often have to travel more than 100 miles to interview witnesses, obtain records, or visit crime scenes that are time sensitive. By increasing the limit, we will be able to save time and resources by avoiding multiple trips or delays in obtaining preauthorization.
- Section 3.23 - Car rental: We request that this section be amended to provide clarification on the preferred rental agencies, the exceptions for non-compact cars, and the insurance coverage for international travel. This will help us avoid confusion and unnecessary expenses when we need to rent a car for our investigations. The current policy does not specify which rental agencies are preferred by OPDC, which may result in higher rates or fees. Though the current policy states “Rental of any other size or type of vehicle must be specifically justified and approved,” it has been our experience that OPDC has persistently denied requests. For example, we may need a larger car to transport a client, a witness, or evidence. Additionally, compact vehicles are not well equipped for locations with diverse or extreme weather conditions, putting our safety at risk or when we know the road conditions are poor year-round and require all-wheel drive or high clearance for

safe passage. The current policy also does not address the insurance coverage for international travel, which may be required for some cases that involve foreign witnesses or evidence. We need clear guidance on how to rent a car that meets our needs and complies with the OPDC policy.

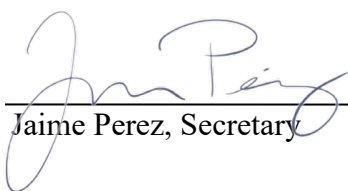
- Section 3.20 - Travel-Related Compensable Time, also 3.26 Mileage: We request that this section be adjusted to allow for exceptions for transporting a client when it will save OPDC money or avoid costly delays in a case. This will enable us to provide better service to our clients and facilitate their participation in their defense. The current policy does not allow us to bill for time or mileage for transporting a client, unless it is preauthorized by OPDC. However, there may be situations where transporting a client is the most efficient and cost-effective option. For example, we may transport a client to a meeting with their attorney, a court hearing, a mental health evaluation, or a meeting with an expert. By doing so, we may save OPDC money on taxi fares, bus tickets, or other transportation costs. We may also avoid delays or missed appointments that could jeopardize the case. We request that the policy be revised to allow us to bill for time and mileage for transporting a client when it is reasonable and justified.
- Section 3.17 - Cancellations and Missed Appointments: We request that this section be updated to state that it does not apply to fact or mitigation investigators. This will reflect the reality that we often have to deal with unpredictable and uncooperative witnesses, and that we cannot always anticipate or prevent cancellations and missed appointments. The current policy states that providers may not bill for time or expenses related to cancellations or missed appointments, unless they are due to circumstances beyond their control. However, this policy does not recognize the challenges and difficulties that fact or mitigation investigators face in their work. We often have to deal with witnesses who are reluctant, hostile, or unreliable. We may have to make multiple attempts to contact or locate a witness, or to arrange a meeting or interview. We may have to travel long distances or to remote areas to reach a witness. We may have to deal with unforeseen events or emergencies that affect the witness or ourselves. We have no control over these factors, and we should not be penalized for them. We request that the policy be amended to state that fact or mitigation investigators may bill for time and expenses related to cancellations or missed appointments, as long as they document the reasons and efforts made to avoid them.
- Section 2.2 - Overhead expenses: We request that OPDC allow providers to bill for time spent preparing and dealing with expense reimbursement. This will compensate us for the administrative work that we have to do to comply with the payment policy and document our expenses. The current policy states that overhead expenses, such as office rent, utilities, supplies, equipment, and insurance, are not compensable by OPDC. However, this policy does not account for the time and effort that we have to spend on preparing and submitting our expense reimbursement requests, and on resolving any issues or disputes that may arise from them. We have to keep track of all our receipts, invoices, and other documents that support our expenses. We have to fill out and submit the expense reimbursement forms and attach the required documentation. We have to follow up with OPDC staff to ensure that our requests are processed and paid in a timely manner. We


have to deal with any questions, errors, or discrepancies that may occur during the reimbursement process. These tasks are time-consuming and labor-intensive, and they take away from our core work of conducting investigations. We request that the policy be changed to allow us to bill for time spent preparing and dealing with expense reimbursement, at the same rate as our investigative work.

- Section 1.5 - Rush requests: We request that the policy be changed to include requests that relate to contacting a witness or obtaining an item that may not be available if the request is delayed. This will ensure that we can respond to urgent requests that are essential for the defense of our clients. Current policy does not cover other types of requests that may be urgent and critical for the defense of our clients. For example, we may need to contact a witness who is leaving the state or country, or to obtain an item that is about to be destroyed or disposed of. These requests may not be related to a court appearance or a meeting, but they may be vital for the defense of our clients. If we delay or miss these requests, we may lose valuable evidence or information that could affect the outcome of the case. We request that the policy be revised to include requests that relate to contacting a witness or obtaining an item that may not be available if the request is delayed.
- Expense reimbursement prioritization: We request that OPDC add a section that specifies that requests for expense reimbursement over \$200 shall be processed as soon as possible. This will help us manage our cash flow and avoid financial hardship. The current policy does not indicate how long it takes for OPDC to process and pay our expense reimbursement requests, or how they are prioritized. We understand that OPDC has limited resources and staff, and that they have to deal with a large volume of requests. However, we also have limited resources and cash flow, and we rely on the timely payment of our expenses to continue our work. We often have to pay for our expenses out of our own pocket, or use our credit cards or loans, which incur interest and fees. We may have to wait for weeks or months to receive our reimbursement, which affects our financial stability and ability to work. We request that OPDC add a section to the policy that states that requests for expense reimbursement over \$200 shall be processed as soon as possible, preferably within 30 days of receipt. This will help us plan our budget and cash flow, and reduce our financial burden.

We believe that these changes will improve the efficiency and effectiveness of the payment policy and will benefit both the providers and the OPDC. We thank you for your attention and cooperation, and we look forward to hearing from you.

In Solidarity,


Jaime Perez, Secretary


Wes Woods, Treasurer

/s/ Dawn Krantz

Dawn Krantz, Union Delegate

Defense Investigators of Oregon

MARION COUNTY ASSOCIATION OF DEFENDERS

MCAD

187 HIGH STREET, STE 300

SALEM, OR 97301

EMAIL: MCADLAW@GMAIL.COM

WWW.MCADLAW.COM

OLCOTT THOMPSON—EXECUTIVE DIRECTOR
LISA RICHARDSON—OFFICE MANAGER
CELL: 971-345-7612

TEL. (503) 990-8168
FAX (503) 339-1967

March 19, 2024

Oregon Public Defense Commission

Via email to: opds.info@opds.state.or.us

Chair Nash and members of the Commission:

I am the Executive Director of the Marion County of Defenders (MCAD), the consortia in Marion County. I write this, in part, to provide a report of what is really happening especially in Marion County.

Attached is a copy of what I sent the Commission last month as a response to the then proposed Retention Incentive Payments policy. The response to it from the agency, besides not including it in the meeting materials, was solely an email stating: "I wanted to let you know we received your public comment in reference to the draft Incentive Retention Policy. We will have a feedback session on February 13th at noon." Hardly the personal response alluded to by the agency at the Commission meeting.

I reiterate that the revised proposed Retention Incentive Payments policy has nothing to do with the retention of lawyers. It solely revolves around the agency getting monthly reports. The agency already has financial penalties it can impose if contractors do not timely provide their monthly reports. The retention payments should be tied, as they were last year, to the retention of attorneys. The agency already has tools to deal with late monthly reports.

Further, the agency does not even have good data despite those reports. On February 13 we received an email from the agency asking for a meeting because there were "a significant number of appointment errors." After we were able to get a list of what those supposed errors were, MCAD spent over three hours checking all 97 "errors." The errors were supposedly, during the last six months of 2023, reporting an open case a month after the actual appointment. It turned out there were 7 such errors. The other supposed 90 errors were not errors at all. All those cases had been properly and timely reported.

In the last six months of 2023 MCAD reported over 1400 new appointments. Our 7 errors is a less than .5% error rate. 90 errors out of 97 supposed errors is a 90% error rate. The only response we have ever received

from the agency was on February 16, "Based on the information you are providing I will send a ticket to our data team to look into this. Thank you for all your help." We have heard nothing further.

As you know the agency has not prioritized approving requested expenses for cases nor paying individuals who provide services to clients. I do not know where the agency is getting its numbers for how far behind it is but the reported numbers, like two years ago, are wrong. The first reported number for the delay in approvals was in the February 20 OPDC Newsletter which reported the approval delay can take up to 22 days. Coincidentally, on February 20, I received an approval for a request I submitted January 12, 2024, 39 days before. Not even close to 22 days.

One MCAD lawyer had to go to trial without an expert because of the delay getting an approval. The expert would not start work until their expenses were approved and there was no approval before the trial of the in custody client commenced. I have heard that while MCAD lawyers are delayed like the rest of the private bar in getting approvals, the Marion County Public Defender's Office receives approvals within a week. I do not know how accurate that is.

The most recent report for payment processing time was in the OPDC Newsletter of March 18. In there the agency reported that as of March 14 the processing time was 38 days. On March 15, the following day, I received payment of a bill I submitted February 3, 41 days before. I still have not received payment for the other bill I submitted on February 3.

The payment time is routinely days past the time OPDC is reporting and has been 35 days or more since late 2022, frequently over 40 days.

The most distressing thing I have heard, however, is that at least some members of the Commission think there is nothing they can do about this. The Commission, while it should not direct how things are done within the agency can and should set policy. It can tell the Executive Director who is, essentially, the Commission's employee, to approve requests within a set number of days and the same with paying individual providers. Right now the agency is continuing to show it really does not care about the people who are actually doing the work the effect of which is to drive them away.

It appears that the agency has forgotten that two years ago it had a cash problem. Because of some management issues the agency was running out of cash and it requested contractual providers to forego half a monthly payment to solve the issue with the short monthly payment to be made up a month later. MCAD, like most contractors, rapidly said yes. I daresay that if that request was made today the response would be far less favorable. I know I could not say yes on behalf of MCAD.

MCAD has been since early February attempting to add attorneys and capacity in a county that has severe problems with not enough lawyers willing to do this work. MCAD lawyers have been picking up the slack for the problems with the Public Defender's Office for almost 5 years now. MCAD lawyers are at about their breaking point and by early May, at the latest, probably will have to stop taking cases. Yet, all we get from the agency is "we will tell you later whether you can add attorneys" I know the agency is excited about being able to add their own office in Marion County but creating a situation where the most efficient and least costly provider cannot add attorneys in favor of the most expensive option seems more than foolish. MCAD can only tell prospective members we would like you to join us but we have no idea when or if you can means,

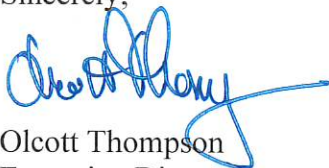
effectively, we cannot add attorneys. Right now we have two lawyers and possibly a third who are qualified and are ready to start representing people but the only response we can get from the agency is we will let you know something later.

The agency has the funds to allow more lawyers into the system. Yes, if it allows contractors to increase their number of lawyers it puts that part of its budget in the deficit but it also decreases the strains on the unrepresented persons portion of the budget. The agency can, as it just did, go to the legislature, and ask for a rebalance moving funds from the unrepresented portion to the contractors portion justifying it based on it is more cost effective to add capacity of contractors than have people represent the same people on an hourly basis through the unrepresented portion of the budget.

Like with retention payments, approvals, and individual provider payments, this, of course, does not fit in with the agency needing its own more expensive employees to take care of the ever growing number of unrepresented people rather than working to retain and increase the number of private bar members who are part of this system.

Ultimately, it is your call what happens. You can direct your Executive Director to remove these issues or you can do nothing. If you want to continue with the agency's direction of eliminating as many private providers (attorneys, interpreters, investigators) as possible then let the agency continue as it is and watch it continue to struggle to find people to do the work that needs to be done. If you want to right the system and retain and add people then you need to set policies in place that will do that: approvals and payments within a reasonable period of time, definite answers within a reasonable time concerning the addition of new attorneys to contracted providers. The agency needs to (as has been said many times before) provide answers, own up to its mistakes, and use the data provided to it rather than just gathering it and creating inaccurate reports of that data.

Sincerely,



Olcott Thompson
Executive Director

MARION COUNTY ASSOCIATION OF DEFENDERS

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February 6, 2024

The Oregon Public Defense Commission

Via email

SUBJECT: Retention Payments

Chair Nash and members of the commission:

I wanted to provide public comment for tomorrow's OPDC meeting but a court appearance in Douglas County prevents that.

I write to you concerning the proposed Retention Incentive payments. The proposal from staff has nothing to do with retaining attorneys but only with the agency getting data from contractors. The proposed payments are not tied to the retention of attorneys in any manner.

The first proposed payment on April 15 goes to all contract providers no matter how many attorneys they retained, just the number as of April 1, 2024. That number could be all attorneys who were with the provider on July 1, 2023, or all brand new hires on April 1, 2024.

The remaining payments are all tied to data received by the agency and similarly the amount is tied to the number of attorneys with a contract provider as of a certain date. There is nothing that ties any payment or the amount of any payment to how long an attorney has been with a contract provider.

This is absolutely not money being paid based on any contractor retaining any attorneys which is what the Legislature provided the funds for. It is solely based on the agency getting data from contract providers sooner than the time set out in the agency drafted contracts with providers. The deadline for submitting data was selected by the agency, not the providers. That the agency wants data sooner is an issue created, in large part, because it drafted the contract and it has for a very long time been unable to move forward with an online time reporting system something that had it been implemented years ago when it was proposed would alleviate the delay in the agency getting data.

Of course, part of that delay is because the agency decided it did not want just a timekeeping system but much more. Something it is, again, starting to create all over. All it needed and needs is an online time reporting system.

The effect of the proposed "retention" payments in Marion County will be the Public Defender's Office which has lost experienced attorneys since July 1, 2023, will likely receive more "retention" money than MCAD which has lost .75 attorneys since July 1 and has additionally added a major felony attorney.

On October 1, 2023, the Marion County PD's Office was funded for 9 misdemeanor attorneys, 2 lesser felony attorneys, 8 major felony attorneys, and 5.65 murder qualified attorneys. 24.65 attorneys total. As of mid-January, 2024, there were 7 misdemeanor attorney, two of whom look like they were hired after July 1, 2 lesser felony attorneys, 3 major felony attorneys, 2.5 murder attorneys, one of whom appears to have been hired after July 1, and 2 major felony and 2 murder attorneys in the process of leaving.

In less than 4 months, the PD's Office has lost at least 2 misdemeanor attorneys, 5 major felony attorneys, and 3.15 murder attorneys. Of the 14.5 attorneys now in that office and staying there (at least they have not given notice they are leaving) it appears only 11.5 attorneys were there on October 1, 2023.

On October 1, 2023, MCAD was funded for 21.21 attorneys. Since then, we have lost no attorneys. As of July 1, 2023, 7+ months ago, we were funded at 22.5 attorneys. While we lost some attorney capacity, mostly a reduction in percentage, we also added a major felony qualified attorney and are presently funded at 21.41 attorneys. Removing the percentage of the post July 1 hire results in 20.46 attorneys who have been with MCAD for 7+ months, many of whom have been with MCAD for years.

The contrast is stark. Since July 1, 2023, MCAD has retained 20.46 attorneys while the Public Defender's Office has only retained 11.5 attorneys since *October 1, 2023*. Yet, the PD's Office will be paid as if they retained all the attorneys they have in their office on April 1 including anyone it hires by April 1, even though at the most only 11.5 will have been there 6 or more months. Meanwhile, MCAD which has retained almost all its attorneys since July 1, will get nothing to recognize any of its attorneys who have been with MCAD for more than 6 months, mostly years longer.

What this, in part, appears to be is yet another effort by the agency to give Public Defender Offices more money than consortia private bar members. By their very nature PD Offices have more turnover than consortia. Attorneys move out and to the private bar and consortia as they gain experience and get higher qualified. It is exactly those more experienced and qualified lawyers who need to be retained. This proposal stands that idea on its head and awards entities who submit data in advance of when the agency said it wanted the data regardless of how long their attorneys remain. What matters is the number of attorneys as of a certain date no matter their experience.

I urge you to tell the agency to completely redo its proposal and provide the funds the Legislature gave it to help retain lawyers to do just that. Otherwise, how does the agency propose to tell the Legislature it, once again, did not follow the Legislature's directions and spent money it was given in the way it wanted to rather than the way it was directed to spend it.

Sincerely,

A handwritten signature in black ink, appearing to read "Olcott Thompson", with a long horizontal flourish extending to the right.

Olcott Thompson
Executive Director

Public Comments for OPDC meeting March 21, 2024

My name is Bernie Brown and I'm a mitigation specialist with nearly 22 years working as a licensed private investigator. I also have 17 years of experience behind a badge.

As of **February 29, 2024**, our Accounts Payable payment process time is **37** days

As of **March 7, 2024**, our Accounts Payable payment process time is **37** days

As of **March 14, 2024**, our Accounts Payable payment process time is **38** days.

3/18/24 The processing time of applications for pre-authorized services can take up to **30** days

We are lead to believe that the processing time is calculated in "working days." Those days that accounts payable staff is in the office, because they aren't able to conduct work remotely. **As of March 19th I am waiting for payment on an invoice submitted February 7th.**

I received a call from a colleague asking about the 180 day expiration of the new Pre Authorization Expense requests. Formerly known as NRE's and CSS's. I don't remember what they were called when we submitted our invoices to a court clerk before OPDS was developed. Life was simpler then and we certainly haven't made near enough progress towards the hourly rates from 2002 when it was \$25/hr.

As I understand it, OPDC is trying to track funds that are set aside each time an authorization is approved. But **NO INSTRUCTIONS OR ANNOUNCEMENTS WERE ISSUED TO ANYONE I'VE HEARD FROM REGARDING THE CHANGE TO THIS PROCESS:** The undated instructions on the Provider Webpage for the short and long form is **OUTDATED**. It still shows the hourly rate for investigators as \$40/hr. I believe that changed October 2023.

Many attorneys tell their investigators to start work on the cases because the requests were made for an authorization. But it wasn't that long ago when it was suggested investigators not start work until we had authorization in hand to prevent work being done prior to the Effective Date. Perhaps providers need to return to that practice. As the current authorizations and request forms state: **PLEASE NOTE: Services/expenses prior to the effective date will not be paid.**

I've reviewed the long and short request forms. Item #8 of the long form starts with "IF APPROVED." What if the investigator or mitigator starts their work and it's not approved?

I know of a newly established investigator that did start work on a case, exhausted 40 hours of work, the case was resolved and adjudicated. And still the investigator was waiting for an authorization. Now take into account the delay in getting invoices paid. Heaven forbid there are expenses incurred by the provider that were placed on a credit card accruing interest charges.

As of March 19th I have cases where I am without a current authorization with around 75 hours tied up. And I felt comfortable asking the attorneys for more hours well ahead of exhausting the hours pre-authorized.

On January 22nd I learned a witness, that I'd been trying to locate for 8 months, was in custody in Klamath Falls. A RUSH travel request was submitted on January 23rd and it wasn't approved until February 29th. That person was no longer in custody and I do not know where that person is today.

When I was in uniform I would have been able to reach out to another agency to conduct an interview without delay. Or if the distance wasn't great, jump in a department vehicle and go take care of it myself. However this is a major mitigating witness. And it's not possible to rely on another private investigator not familiar with the case or what mitigation entails.

Law enforcement does not conduct mitigation interviews. Trust me. I was once told by a supervisor to stop doing the defense attorneys work for them. I responded that I thought my job was to conduct a complete and thorough investigation.

My frustration with low rates, current status of the authorization and invoice approval schedule is shared by my colleagues and it has lead to a large number seeking work in other areas outside of the Oregon public defense system.

I agree with some of the language in the OPDC newsletter released on Monday that "Funding the core staff for all public defense providers is vital." Hopefully a definition of "core staff" will be made public.

Much like the defense attorney crisis, the same applies for investigators and mitigators, as we too are running thin. I'm a member of OCDLA and often see requests for investigators and mitigation specialists "who are willing to take a case at the OPDC rates." Colleagues are being solicited to take on new cases and are having to decline due to an already heavy caseload and the current rate that makes the cost of doing business more and more difficult.

And in closing.....it is primarily because of the mistrust surrounding hourly rates that I stopped taking standard court appointed cases last September. And I stopped taking new court cases entirely as of January 1st.

Due to respect for the teams and clients that I'm currently working with, I will finish the cases that I now have and retire. However, that will not stop me from advocating for and mentoring those that are still working hard to aid their clients in getting a fair trial.

Thank you for your valuable time.