

**From:** [Philips Consulting Group](#)  
**To:** [REDACTED]  
**Cc:** [REDACTED] [OPDS info](#)  
**Subject:** Re: Oregon Public Defense Commission - OPDS Retaliation?  
**Date:** Wednesday, September 11, 2024 5:07:12 PM

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Dear Chair Nash, Vice-Chair Mandiberg, Members of the Commission,

I want to follow up my earlier email with two points, because I cannot stop thinking about this, and am at a loss as to why after 4 weeks, there has not been a public response from the Commission regarding the substantiated instances of retaliation against women attorneys.

### **1. Excessive delay caused by OPDS**

We have waited three years for this investigation to wrap up with a report, and per the investigator Jill Goldsmith, the excessive delay was because OPDS was not cooperating with the investigation. This has caused immense harm to every single woman who came forward, and to the unknown numbers of others too afraid of retaliation to come forward. Any statements attempting to downplay or minimize the behavior of Eric Deitrick because they "happened years ago" is unacceptable, because the reason for the delay was the deliberate refusal of OPDS to cooperate with the investigation.

### **2. This behavior is an egregious abuse of power and merits termination of employment**

For the attorneys on the commission, I know you are all familiar with the jury instruction Witness False In Part.

This instruction also falls under ORS 10.095(3) Duty of Jury:

**"That a witness false in one part of the testimony of the witness may be distrusted in others."**

This is an excerpt from page 22 of the report from investigator Jill Goldsmith:

Witness 6 was retaliated against by Deitrick. Witness 6 is vocal about her opinions of Deitrick and OPDS and has voiced them publicly and in letters to the Public Defense Services Commission (PDSC).

- a. Deitrick, who would not become involved in another matter because the organization had a contract with OPDS, chose to write an unsubstantiated letter based on a few complaints he received about Witness 6. The letter is scathing and unfair and written on OPDS letterhead and signed by Deitrick as OPDS' General Counsel.

Also from page 22 of the report:

Deitrick investigated Witness 4 twice without any "official" complaints, both times without informing her.

- a. In addition, although Deitrick denies it, I find Deitrick made comments to two prospective employers which caused one of them to withdraw Witness 4's job offer.

These excerpts are direct examples of the General Counsel for OPDS making unsubstantiated claims about women attorneys that negatively impacted their careers and professional reputations. Even if this Commission considers this happened "years ago" this is unacceptable behavior from a person on the Executive Team of the state agency for public defense. A person who would make up complaints about attorneys he doesn't like, and then take further action to deliberately harm their professional reputations and careers has no business being in a position of power over the attorneys practicing public defense in this state. He has no business being in a position of power over anyone, because these actions are an abuse of power.

There were substantiated findings for four of the women. We still do not know how many more women would have come forward but for the well-founded fear of retaliation. That this Commission has not directly addressed such egregious abuse of power from the general counsel sends a message to every single woman in public defense: "Shut up and do your job. We do not care if you are mistreated."

Sincerely,  
Rachel Philips

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On Wed, Sep 11, 2024 at 2:00 PM Philips Consulting Group  
<[rachel@philipsconsultinggroup.com](mailto:rachel@philipsconsultinggroup.com)> wrote:

Dear Chair Nash, Vice-Chair Mandiberg, Members of the Commission,

I just watched the video and reviewed the transcript of the September 9, 2024 Governance Committee meeting and want to clear up what seems to be an enormous misunderstanding of the report that made findings of retaliation by Eric Deitrick towards women attorneys.

Commissioner Mandiberg:" 1st as I understand it based on Communications with me the reasons some people object to him being an evaluator is because of the report that was made after investigation into behavior that Eric was involved in a number of years ago under a different executive director"

This is not accurate at all, and is why in my first email on this matter I added Lisa Ludwig's comments to the Commission from August 2022, as well Bear Wilner-Nugent's letter to the Commission in 2021 - that the behavior predates Steve Singer, and the constant through at least 4 Executive Directors (Lane Borg, Ed Jones, Steve Singer, Jessica Kampfe) is the same general counsel Eric Deitrick.

I would also emphasize that the retaliation has not stopped, that it is ongoing, and that numerous individuals have expressed concerns about coming forward **even now** with allegations of retaliation - in no small part due to this Commission's failure to respond publicly to the report and the very clear and disturbing characterizations of wrongdoing.

This was not an isolated series of actions at the direction of Steve Singer. This is a pattern of behavior that continues even now by Eric Deitrick.

That there are comments in the meeting saying he worked closely with Jessica Kampfe so he may have valuable insights into her performance is an absolute slap in the face to every single attorney who has come forward and spoken up about their experiences of retaliation - experiences that were found by the investigation to have occurred - and this shows a complete lack of care and regard for the women attorneys doing outstanding public defense work under terrible working conditions, including a state agency deliberately trying to undermine their work!

This commission seems to be saying "we don't care that he mistreated and retaliated against women he didn't like, we still value his perspective."

No wonder so many good attorneys have left and continue to leave public defense.

Today's unrepresented number is 3,661.

Sincerely,  
Rachel Philips

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On Wed, Sep 4, 2024 at 10:59 AM Philips Consulting Group  
<[rachel@philipsconsultinggroup.com](mailto:rachel@philipsconsultinggroup.com)> wrote:

Dear Chair Nash, Vice-Chair Mandiberg, and Members of the Commission,

(I was unable to find email addresses for all members of this Commission, since contact information of members is not provided on the website, and would ask that this email be forwarded to those members not included in this email.)

My name is Rachel Philips and I have been a practicing criminal defense attorney since passing the Oregon bar exam in October of 2005. The first eight and a half years of my practice were spent at MPD, and after leaving in 2014 I maintained a mixed caseload of mainly court-appointed cases with some retained work until the past few years. Now I mainly take retained cases and have slowly reduced my intake of court-appointed cases due to my ongoing experiences of being paid less than others, and being retaliated against. (This was substantiated in the report on retaliation.)

I am emailing today because of the lack of any public response whatsoever to the two reports provided by investigator Jill Goldsmith, the most recent one finding that General Counsel Eric Deitrick retaliated against a number of women attorneys, including behaviors such as tanking one woman's job prospects, providing privileged information to a DOJ attorney against another woman, and essentially retaliating against any woman he didn't like, in behavior that can only be described as "tyrant-like".

This morning when the OPDC sent an email with a link to agenda for the Committee on Governance I was shocked to see that the Commission is including Eric Deitrick as one of the individuals to be contacted as an evaluator for the evaluation of Executive Director Jessica Kampfe. How is this possible? How is the Commission even *considering* that Eric Deitrick is a reliable individual for the performance review of anyone? How is he still employed?

There is currently a shortage of attorneys willing to practice criminal defense for court-appointed cases, that this Commission continually fails to connect the dots that the treatment of attorneys by OPDS/OPDC - specifically the treatment by Eric Deitrick and the toxic culture he has fostered for years as General Counsel - is part of the reason so many attorneys are leaving public defense work is astonishing.

Based on the continued lack of response and action by this Commission to the findings of retaliation and unfair pay, it is clear that, despite my career track record of 14 wins at the Oregon Court of Appeals as the trial attorney who successfully preserved the issues for appeal, my continuing track record of trial wins and successful settlements, including winning a motion for a new trial as recently as fall of 2022, my tracking of settlement comparables for complex Ballot Measure 11 cases and sharing of those resources with the defense bar, my opinion and voice are not valued by this Commission. So, if you will not listen to me and the other women who have come forward, as well as the findings of the report, I have attached an email from a male attorney in criminal defense (two of them), Ryan Scott and Bear Wilner-Nugent.

The email was sent to the OCDLA Pond today by Ryan Scott and the forwarded email and letter to this Commission was sent by Bear Wilner-Nugent in 2021. I would add that the pay issues that were allegedly fixed by OPDS/OPDC are not fixed - I have once again heard from male attorneys that they are getting paid higher amounts on hourly cases, you just have to know how to ask for it - exactly what was happening before. Nothing has

changed.

When I gave public comment at the August meeting, I quoted Lisa Ludwig naming eight women attorneys who left the administrative office of OPDS within a 24-month timespan - all of these women either reported to the General Counsel or worked closely with him. How many talented women attorneys aren't applying for OPDS/OPDC positions because of Eric Deitrick? How many are applying and not getting hired or advanced because of Eric Deitrick? How many women still haven't come forward because of the well-founded fear of retaliation?

I am also including this link to an article on the firing of former Portland Mayor Sam Adams by current Mayor Ted Wheeler. Sam Adams was fired for his belittling, interrupting, and yelling at female employees. Seems relevant here, as the retaliation by Eric Deitrick detailed in the report is far worse behavior, and yet he is still employed. <https://www.oregonlive.com/politics/2023/01/portland-mayor-ted-wheeler-fired-sam-adams-for-bullying-female-employees-heres-what-records-show.html>

As of today, there are 3,701 unrepresented individuals in the State of Oregon. My prediction is that number will rise to 4,000 by the end of the month, and it will continue to rise until this Commission takes action to improve OPDC by demanding the current Executive Director fire Eric Deitrick. As long as he continues to be employed at the agency, Oregon will continue to face a shortage of attorneys in public defense.

I urge you to demand that General Counsel Eric Deitrick be fired for the good of public defense in Oregon.

Sincerely,  
Rachel Philips

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**From:** [Philips Consulting Group](#)  
**To:** [REDACTED]  
[OPDS info](#)  
**Cc:** [REDACTED]  
**Subject:** Oregon Public Defense Commission - OPDS Retaliation & Director Kampfe Inaccurate Statement  
**Date:** Monday, September 16, 2024 1:12:40 AM  
**Attachments:** [Page21ReportonRetaliationExhibit101.pdf](#)

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Dear Commission Members,

The Executive Director of OPDC sent a statement on the Report on Retaliation on Friday afternoon, September 13, 2024, not via the agency email, but instead had her statement disseminated to the Oregon Criminal Defense Attorneys (OCDLA) Listserv. This seems very unusual, since it is a statement made by the agency, it would seem appropriate to be sent directly from the agency. Especially since not all public defense providers are members of OCDLA, and not all members of OCDLA do public defense work. (I am not a member of OCDLA, and only received a copy via a colleague.)

More importantly, the statement included this completely false sentence, which is directly contradicted by the report itself:

"The incidents that were referred to in the Workplace Solutions investigation report occurred between 2019 and 2021 when the agency was under different leadership and had limited capacity to address complaints."

I have attached as an Exhibit, Page 21 of the Report on retaliation, which clearly includes evidence of retaliation occurring in 2023, and while Eric Deitrick was being interviewed by the investigator about retaliation.

I will also include it here:

**I interviewed Deitrick on May 25, 2023** at 10:00 am. During that meeting, I went over concerns I had about his treatment of Witness 6, including that he had written the letter critical of Witness 6 in November 2020, and shared it with a member of the public ([Jane Doe]) who had no need to know the information. **The same day I interviewed Deitrick**, the state attorney sent Deitrick the draft declaration he wanted Deitrick to sign in opposition of Witness 6's attorney's fees.

***When I later asked Deitrick why he would support the state attorney to oppose Witness 6's attorney's fees motion when she had been given leave to do the same thing in a previous case and when I had – that very day – indicated to him that his actions towards Witness 6 appeared to be problematic, Deitrick told me he was simply answering a public records request as he normally would do.***

**However, contemplating signing a declaration is beyond answering a public records request. At the beginning of the interaction with the state attorney, Deitrick was contemplating signing a declaration to oppose a public defender from obtaining attorneys' fees that she would otherwise receive as a sanction due to bad faith on the part of the defendant.**

This is direct evidence of ongoing behavior, this is outlined exactly as above in the full report,

on Page 21, so the only way to conclude that retaliation had only happened in 2019-2021 is if a person didn't read the full report. This is in the report that Eric Deitrick was engaging in retaliatory behavior in 2023, and doing so while being interviewed about retaliating against women attorneys. Such behavior does not lend confidence that it has stopped or that it will stop in the future.

Furthermore, because this investigation was so delayed, there was no guidance given to any of the individuals who came forward in regards to re-approaching the investigator with ongoing concerns and incidents of retaliation.

I would remind this commission that the report was completed in February of 2024 and for some reason Executive Director Kampfe refused to release the report for 7 months. The report was not released until August 2024.

Saying the retaliation happened in 2019-2020, when the report shows otherwise, is one more example of how OPDC continues to lose its credibility with providers.

Sincerely,  
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Deitrick about the fee petition Witness 6 filed. On May 25, 2023, the State attorney attached a draft declaration to an email to Detrick stating in his email that Deitrick could make changes but that the State attorney understood that Deitrick had said he would sign it. Ultimately, Deitrick refused to sign the declaration, but he did provide the State attorney with a copy of Witness 6's fee agreement with OPDS (Exhibit 21).

Meanwhile, Bender and Deitrick apparently realized they were giving different information about the same issue to the two parties (Witness 6 and the state attorney representing the ODOC) (Exhibit 20). Bender wrote an email to Witness 6 on May 30 telling Witness 6 that Bender needed to "walk back" her agreement to Witness 6's fee petition (Exhibit 20).

On June 1, 2023, Deitrick communicated with the State attorney:

"I cannot sign a declaration in this case. We do not have a contract term or a written policy addressing the issue of attorney fees. Additionally, prior to our talking, our office had already communicated to [Witness 6] that we were ok with her receiving the fees, rather than the agency. If this continues to be an issue, we should consider creating a policy or contract term to address it. But absent that, and given our prior communication with [Witness 6], we cannot weigh in.

"I can confirm for you that her public defense hourly rate for this case is \$100/hour" (Exhibit 21).

As an attachment to that email, Deitrick provided a copy of Witness 6's hourly fee agreement with OPDS (Exhibit 21).

When Witness 6 found out that Deitrick had provided this information (due to the State attorney's response to her fee petition), she contacted OPDS' Executive Director. Some inquiry must have been made, because Bender wrote the following email to OPDS' Executive Director on July 10, 2023:

"I don't believe that I was provided the declaration prepared for Eric to sign, but it was determined that he should not sign any declaration, and further that he should respond that our agency had already approved her receiving the award. Eric provided the [state] attorney with the rate of compensation for [Witness 6's] work in this habeas matter. In hindsight, it would have been best if we had included [Witness 6] in the communications" (Exhibit 22).

I interviewed Deitrick on May 25, 2023 at 10:00 am. During that meeting, I went over concerns I had about his treatment of Witness 6, including that he had written the letter critical of Witness 6 in November 2020, and shared it with a member of the public ([Jane Doe]) who had no need to know the information. The same day I interviewed Deitrick, the state attorney sent Deitrick the draft declaration he wanted Deitrick to sign in opposition of Witness 6's attorney's fees.

When I later asked Deitrick why he would support the state attorney to oppose Witness 6's attorney's fees motion when she had been given leave to do the same thing in a previous case and when I had – that very day – indicated to him that his actions towards Witness 6 appeared to be problematic, Deitrick told me he was simply answering a public records request as he normally would do.

However, contemplating signing a declaration is beyond answering a public records request. At the beginning of the interaction with the state attorney, Deitrick was contemplating signing a declaration to oppose a public defender from obtaining attorneys' fees that she would otherwise receive as a sanction due to bad faith on the part of the defendant.



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September 16, 2024

Oregon Public Defense Commission

**RE: Accounts Payable**

Chair Nash, Vice Chair Mandiberg, Members of the Commission:

I write you as an attorney who is billing OPDC directly for the time spent representing adults charged with crimes. I am the person who has over the years kept track of how long it has taken OPDC and its predecessor OPDS to pay bills. When the time for payment started increasing I realized I had lots of historic data and compiled it. Prior to 2019 payment was regularly made within 20 calendar days, frequently under 10 calendar days. As we all should know since then payment times have ballooned to over 45 days at least twice and have rarely been just 30 calendar days since they first hit 45 days in 2020, usually at least 35 days and all to frequently in the 40s.

There has been discussion as to who is raising this issue with the suggestion attorneys have no problem with late payments. Attorneys do have problems with the OPDC billing and payment process and have self selected themselves out of accepting appointments where they must bill OPDC directly.

In Marion County very few of the MCAD attorneys are willing to accept appointments where they must bill OPDC. The court reached out to a number of non contract private bar members and cajoled them into taking some appointments. Every one of those attorneys I have spoken to say they are no longer willing to accept such cases because of the OPDC billing and payment process. It is too cumbersome and it takes way to long to get paid.

At the last Commission meeting the focus of the Commission seemed to be on what happens after OPDC approves a bill for payment and whether approval at day 44 means the bill is being paid late. While that is certainly appropriate I suggest the Commission is focusing on the wrong end of the process. The question should be why it is taking OPDC staff over 30 days to start processing bills. As it takes two weeks at the most (usually only a couple of days) to process a bill there is no reason

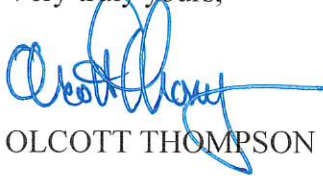
why there should be a question of whether a bill was paid within 45 days. If a bill is promptly processed it will be paid maybe 15 days after it is submitted. Why is OPDC staff not processing bills when they are received? Unless and until they do there will always be an unacceptable delay in paying the bills.

On a further note on the payment process, the agency is not paying bills for interest and while it says here is an email to use if there is a bill that has not been paid within 30 days those emails are unanswered and as best I can tell ignored. I have never received a response and the bills I have enquired about are still unpaid, including one for interest from April 4 that was approved for payment in mid-May.

If you want the private bar to do appointed work on an hourly basis bills must be easy to submit and must be timely paid. As I have related before it takes about half an hour to submit a bill to OPDC between creating the bill in the format the agency requires and using its required submission process. In that vein I recently submitted a bill and did not enter my email address right. The agency sent me an email (at my email address which it had) rejecting the bill because the email address I entered on its submittal form was incorrect. The agency was not willing to use the email address it knew was correct and it used to contact me to "fix" the submission. It just rejected the bill so I had to go through the submission process and resubmit it.

Unless and until this process is fixed, bills are easy to submit, and payment comes regularly within 20 days I will no longer accept hourly appointments. There is no reason for the actions of the agency other than they do not care about non contract private bar members. We are just not any kind of a priority for it.

Very truly yours,



OLCOTT THOMPSON