

MARION COUNTY ASSOCIATION OF DEFENDERS

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May 17, 2024

Chair Jennifer Nash
Vice-Chair Mandiberg
Members of the Commission

Some further comments on the Hourly Rate and Economic Survey Report.

As I noted in my earlier comments the Report left out Oregon Paid Leave taxes and staff costs and figured overhead expense incorrectly. Overhead is a percentage of gross income, not net income. Further a 40% overhead for an attorney who bills 2080 hours per year, the number of hours the study uses, is equal to a 53% overhead percentage for an attorney who bills 1578 hours, the number of hours this commission adopted as the number of hours for a full time attorney.

Using the numbers supplied in the study, overhead at 40% and profit at 10%, means the amount paid to the attorney needs to be twice the amount proposed to be for the attorney and staff. Using a conservative \$50 per hour for staff which includes taxes, benefits, and staff overhead, results in \$168 per hour in costs at the median level. Doubling that results in \$336 per hour that needs to be paid to the attorney so the attorney can receive \$84 per hour gross, has a staff person, also adequately compensated, covers taxes and benefits, and overhead with some profit so the attorney's office can be sustainable. With a more appropriate 60% overhead and profit the amount paid to the attorney needs to be \$420 per hour.

OVERHEAD FIGURED CORRECTLY

FORMULA COMPONENT	25TH	50TH	75TH
Average Hourly Salary	\$67	\$84	\$95
Payroll Taxes	\$7	\$9	\$10
Cost of Benefits	\$20	\$25	\$29
Total Employee Cost	\$94	\$118	\$134
Staff	\$50	\$50	\$50
Overhead (40%)	\$115	\$134	\$147
Profit (10%)	\$29	\$34	\$37
Market Calculated Rate	\$288	\$336	\$368

OVERHEAD AT 53%

FORMULA COMPONENT	25TH	50TH	75TH
Average Hourly Salary	\$67	\$84	\$95
Payroll Taxes (10.35%)	\$7	\$9	\$10
Cost of Benefits (30%)	\$20	\$25	\$29
Total Employee Cost	\$94	\$118	\$134
Staff	\$50	\$50	\$50
Overhead (53%)	\$191	\$223	\$244
Profit (7%)	\$25	\$29	\$32
Market Calculated Rate	\$340	\$420	\$460

1578 hours at \$84 per hour results in gross pay to an attorney of \$132,552. This is close to the statewide median compensation reported in the Oregon State Bar 2022 Economic Survey. It is, however, not close to the budgeted salaries for OPDC trial level attorneys. The budget as presented a year ago provided for an annual cost of \$226,767.50 for each .92 attorney and \$84,685.50 for each .92 legal assistant. Those numbers would include taxes and benefits meaning, using the same percentages as in the Hourly Rate and Economic Survey Report, the salary for a .92 attorney is \$161,572.50. I have heard that the actual compensation is actually greater in part because the Legislature added an inflationary increase.

Using the OPDC cost per staff (\$84,685.50) for staff and 50% for overhead and profit means OPDC should be paying attorneys at least \$394 per hour. If overhead and profit is the more accurate 60% the rate per hour is \$493 per hour.

COMPARISON WITH OPDC EMPLOYEES

FORMULA COMPONENT	OPDC trial lawyers	Comparable compensation (40% overhead)	Comparable compensation (53% overhead)
Attorney compensation including taxes and benefits	\$226,767.50	\$226,767.50	\$226,767.50
Staff compensation including taxes and benefits	\$84,685.50	\$84,685.50	\$84,685.50
Overhead		\$249,162.40	\$412,675
Profit		\$62,290.60	\$54,505
Total annual cost		\$622,906	\$778,633
Market Calculated Rate		\$394	\$493

ORS 151.216(1)(b)(B) requires the Oregon Public Defense Commission to “[e]nsure all public defense provider contracts provide for compensation that is commensurate with the character of the service performed.” Given that the services performed by hourly paid attorneys (and all contracted attorneys) will be similar to the services performed by the state employee OPDC trial level attorneys the compensation for each must be comparable. At a minimum the hourly pay for non OPDC employee attorneys must be \$394 per hour. To the extent OPDC attorneys are actually .92 attorneys and their pay has increased since the presentation of the 2023-2025 budget the rate for full time non-OPDC employee attorneys must also be increased.

I am fairly certain we are actually dealing with average salaries. Thus, the rate for major felony qualified attorneys should be more than at least \$394 per hour and the rate for a misdemeanor only qualified attorney can be less that \$394 per hour.

At a minimum the Hourly Rate and Economic Survey Report needs to be corrected so that the overhead amount is computed on the gross income, not the net income to the attorney, and staff costs are included. Even at 40% overhead and the median rate, the amount paid to attorneys needs to be at least \$336 per hour. In order not to lose members of the private bar the ODCA survey supports this hourly rate. To have comparable pay as the OPDC employed attorneys the rate must be at least \$394 per hour. At that rate along with prompt payment for attorney services it is likely OPDC will be able to attract more private bar members to do this work.

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

May 20, 2024

James Comstock
Insight Legal Investigation
503 765 8050
jamesbcomstock@gmail.com
DPSST PI-ID 052647

Dear Commissioners,

I am writing to ask the Commission to direct the Agency to immediately perform a thorough and detailed analysis of the cost of increasing all investigation rates to \$75 per hour beginning on October 1, 2024, and to seek that increase at the September Emergency Board meeting.

This is an increase that is desperately needed to attract and to retain defense investigators, which is critical to help solve the unrepresented persons crisis. Following is a detailed explanation regarding my concerns with the agency's treatment of this request in the past, along with my own analysis of the cost of this request. Because of the lengthy nature of this letter and the related history, I have included an executive summary.

Executive Summary

In the summer of 2022, investigators Steve Wilson, Sean Coyne and James Comstock surveyed neighboring states, and determined that the OPDS rate for investigators was low. We determined that a fair minimum rate at that time was \$75 per hour – the same as what investigators were paid for indigent defense work in 1985 when adjusted for inflation. In September of 2022 we began asking the Agency and Commission to change the investigation rate to \$75 per hour.

In October of 2022 the Commission voted to increase investigator rates to \$75 per hour on cases from the unrepresented persons list.

In the 2023 legislative session, the legislature raised the investigation rate from \$40 per hour to \$55 per hour.

At the September 21, 2023 meeting, the PDSC voted to “Direct the Agency to prepare the business plan to take to the short session or E board to ask to bring the wages up to \$75 or whatever the rate should be to be closer to parity with the other public defense systems”.

The agency never presented such a business case to the Commission. Rather, on or about November 16, 2023, the agency presented an estimate to the Legislative Fiscal Office for the cost of an increase in rate for investigators to \$75 per hour for the remainder of the biennium. Unlike other estimates in the same document, the agency provided an unusually round number - \$10 million. This appeared to indicate that unlike other line items in the same document, this number was more of a “guess” than proper analysis, leading my colleagues and me to speculate

that the analysis was performed by someone who did not take the direction of the Commission seriously, and who had no intention of conducting meaningful analysis.

In addition to the unusually round number, we suspected that the \$10 million number was unusually high. Analysis performed by us based on data obtained via public record request indicated that the \$10 million number was high by at least 30% - likely closer to 50%.

All of this has greatly diminished our confidence in the ability, willingness and candor of those in the agency performing analysis related to the investigator rate increases. To put it another way, we feel that the Budget and Finance staff are at best apathetic toward this issue, and at worst are actively opposed, as demonstrated by a pattern of significant failure with regard to proposed increase in investigator rates.

We ask the Commission to directly order the Agency to perform competent, accurate, and transparent verifiable analysis of the cost of implementing a rate increase to \$75 per hour beginning October 1, 2024. We ask the Commission and the Director to hold any staff who fails to respond to the direction of the Commission accountable, and to replace anyone who is unable or unwilling to perform their duties as directed by the Commission. Finally, we ask the Commission to order the Agency to seek a rate increase for investigators to \$75 per hour at the September Emergency Board.

Our own analysis based on information obtained via public records request indicates that the likely cost to the agency to increase the base investigation rate to \$75 per hour for the 9 months of the biennium following the September Emergency Board would be **\$1,542,465**.

Rate Survey

Beginning in Summer of 2021, Steve Wilson, Sean Coyne, and James Comstock conducted research and investigation to determine how the Oregon rate for public defense investigators compared to surrounding states. Based on our findings, we determined that the rate was comparatively low, which we determined was a major factor in the loss of investigators to other states and professions, and the lack of new investigators entering the profession. We determined that a minimum amount that investigators should be paid at that time was \$75 per hour -the equivalent to the \$25 per hour that investigators were paid for indigent defense work in 1985 when adjusted for inflation.

Beginning in September of 2021, we began advocating directly with the Agency and the PDSC to increase the investigator rate to a minimum of \$75 per hour.

In December of 2023, the Agency presented a policy for updated rates with language that stated that the rates were based on "...information gathered from several states including Nevada, Washington, California and Idaho and entities including United States Courts, U.S. Bureau of Labor and Statistics and follow budget constraints of the agency". We were puzzled at this assertion, as the rates in the policy did not seem to be in line with what we found in our own survey.

Because of this, based on the apparent discrepancy, we made a public records request for the gathered information referenced in the policy. The Agency ultimately responded saying that there was no record of the information gathered. The Director later shared with the Commission that the employee who had ostensibly conducted the search was no longer with the Agency, and the Agency had been unable to duplicate the searches that the employee claimed to have conducted.

At the direction of the Commission, the Agency ultimately apologized for producing information that could not be reproduced or verified.

This experience greatly taxed the already fragile remnants of trust that providers had with the agency.

Business Case/Rate Increase

Coming on the heels of this difficult experience, investigation providers experienced another disappointing setback in our effort to regain trust in the agency.

In the September 21, 2023 PDSC meeting, the Commission voted to “direct the Agency to prepare the business plan to take to the short session or E board to ask to bring the wages up to \$75 or whatever the rate should be to be closer to parity with the other public defense systems.”¹

This motion passed with 5 “yes” votes with one abstention.²

Investigators were greatly appreciative of this directive by the Commission, and we awaited the business case and analysis from the agency with excitement and anticipation. While we were very aware that the legislature might not have an appetite for an increase in rates in the short session, we anticipated seeing the agency analysis of the cost and benefit of a rate increase.

To date, despite the mandate from the Commission, I am not aware of any business plan prepared by the Agency and presented to the Commission.

Questionable Fiscal Analysis

On January 4, 2024 I made a public records request for correspondence between OPDS and the Legislative Fiscal Office in October, November and/or December with financial analysis for proposed requests for the 2025 legislative session. In response to this request, I received 17 documents. None of these contained any information or analysis regarding a business plan or any other material regarding an increase to the contract rate for independent investigators.

¹ PDSC Vice Chair Buckley, “Meeting Transcripts – 09212023.pdf, obtained from <https://www.oregon.gov/opdc/commission/pages/meetings.aspx>

² Abstaining was Commissioner Winemiller who said: “Commissioner Winemiller: I believe we already have sufficient votes. And for that reason I’m going to abstain. I just think this is grossly insufficient, and I am very, very interested in having the agency prepare that business plan and present it at the earliest opportunity.”

On January 24, 2024 I made a follow up request, making a very specific request noting the Commission vote in the 9/21/23 meeting. I noted the documents that I had received in response to my prior request, and noted that information regarding any increase in the investigator rate was not included in the responses.³ Mr. Deitrick sent me an email on January 30, 2023 which said “James – I have forwarded this to our budget folks and will see if there is anything additional to produce.”⁴ On February 6, 2024 I received an email from Mr. Deitrick which stated, “I checked with our budget folks, and we do not have additional records to provide in response to your request.”⁵

Because it was difficult for me to believe that the Agency had simply done no analysis regarding contract investigator rates in response to the motion passed by the Commission, on February 8, 2024 I email Chair Nash, explaining my dilemma.⁶

On March 11, 2024 I received an email from Mr. Deitrick in response to my January 30, 2024 request. This followed a phone call from Mr. Deitrick, where he had explained to me that he was aware of my email to Chair Nash, and that he would be shortly sending an email in response to that. In Mr. Deitrick’s March 11, 2024 email. He stated that “OPDC’s position is that the attached document is a public document exempt from disclosure pursuant to ORS 192.355(1).⁷ However, the agency is willing to waive that exemption and in order to provide you with the relevant information regarding requests for investigation funding.”⁸

The document which I received from Mr. Deitrick is a 4 page document which is heavily redacted. On page three of the document, the following line is unredacted:

ISSUE	SUMMARY CROSS-REFERENCE	ISSUE EXPLANATION	FUND	FUNDING SOURCE	SOURCE AMOUNT	AMOUNT	POSITION	FTE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
9	Rate changes 425-00	Preauthorized Expenses	Increase investigator rates to 75 and 80 dollars per hour for monolingual and multilingual investigators, respectively. (Deliberated by the commission on October 26, 2023.)	General	Unfunded requests	10,000,000	0	0.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

I noted that agency analysis apparently based the Commission’s vote to “direct the Agency to prepare the business plan to take to the short session or E board to ask to bring the wages up to

³ See attached public records request dated 1/24/24.

⁴ See attached email from Mr. Deitrick, dated 1/30/24.

⁵ See attached email from Mr. Deitrick, dated 2/6/24.

⁶ See attached email to Chair Nash, dated 2/8/24.

⁷ ORS 192.355(1) states “Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.”

⁸ See attached email from Mr. Deitrick, dated 3/11/24., along with the document attached to the email, 2024 Session Needs 103023_Redacted.pdf

\$75 or whatever the rate should be to be closer to parity with the other public defense systems.” appeared to show that the cost of raising the contract fact investigator rate from \$55/hr. to \$75/hr. would cost \$10 million. This analysis was presented without explanation or context, and was not presented as a part of any business case.⁹

This number caused me great concern, as it seemed based on my experience working on this issue to be quite high. Additionally, the fact that the number presented by the Agency was a round number suggested that this was not the result of detailed analysis, much less a business plan to take to the short session or E board.

With the information provided to me by Mr. Deitrick, I was able to search material provided to the Commission by the Agency. By searching for the “Summary” number – 425-00, I discovered that apparently the entire unredacted document had been provided to the Commission publicly in the meeting material sent out for the November 16, 2023 meeting.¹⁰ Based on this, I do not believe that this document was subject to redaction or exemption from disclosure. When the “budget folks” cited in Mr. Deitrick’s email responded to him that there were no “additional records to provide in response to your request.”¹¹, the Budget and Finance management and staff knew or should have known that this document was not exempt from disclosure pursuant to ORS 192.355(1) because the document had already been released publicly in the November 16, 2024 PDSC meeting materials, albeit somewhat buried among many other documents.¹² While I can certainly understand that Mr. Deitrick may not have been aware of this document’s release, it is implausible to believe that the Chief Financial Officer and his staff did not know about the responsive document, as they appear to have prepared it specifically for the November 16, 2024 PDSC meeting. See the following screen shot of the document header:

Public Defense Services Commission

82nd Legislative Assembly - Even-year session budget planning
November 16, 2023

<u>ISSUE</u>	<u>SUMMARY CROSS-REFERENCE</u>	<u>ISSUE EXPLANATION</u>
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Further, aside from the numbers presented in this document, the document appears to contain a material misrepresentation. It says regarding issue 9, item 425-00, “(Deliberated by the

⁹ “Meeting Transcripts 12 14 2023.pdf posted at

<https://www.oregon.gov/opds/commission/pages/meetings.aspx>

¹⁰ See attached PDSC Agenda & Materials 11_16_2023.pdf, pages 30 – 33 of 67. Found at <https://www.oregon.gov/opdc/commission/pages/meetings.aspx>

¹¹ See attached email from Mr. Deitrick, dated 2/6/24.

¹² The redacted document provided by Mr. Deitrick and the document included in the 11/16/23 meeting materials appear to be exactly the same, based on a comparison of the documents. The size, length and shape of the redactions appear to correspond exactly with the content of the unredacted document. Further, the unredacted portions of the document from Mr. Deitrick are exactly the same as their counterparts in the fully unredacted document in the PDSC meeting materials.

Of note: I found it significant that the portions of the document that were left unredacted were a few lines with similarly “round” numbers. The redacted numbers – the vast majority of the document – appear to have been redacted in an attempt to hide the fact that the rest of the analysis in the document was “real” analysis, as demonstrated by the lack of round numbers.

commission on October 26, 2023.)” I have made an exhaustive review of the meeting transcript from the October 26, 2023 PDSC meeting. I found no deliberation of this issue in that meeting.

I also noted in the unredacted version of the document that the amounts for various other line items requiring similar analysis to issue 9, the amounts are NOT round numbers, but rather, they are quite specific, suggesting the level of analysis that one would find in a “business plan” which the Commission directed the Agency to prepare.

Provider Analysis of Cost

Because I was concerned with the accuracy of the \$10 million number presented in this document, I used information that I obtained from OPDC regarding the number of contract investigator hours used in a recent 24 month period.¹³ OPDC reported to me that in the last 12 month fiscal year, the agency paid for 249,540 hours of NRE/CSS investigation. Using that number and dividing by 12, I determined that this represented a monthly amount of 20,795 hours. I then multiplied that by 15.5, assuming that the earliest that any funding could be put into place following possible funding in the 2023 short session would be mid-March. This gave a projected number of 322,322 hours for 15.5 month remaining in the biennium from March 15, 2024 to June 30, 2025. I then multiplied this number by \$20 – the difference between the current \$55 rate and the \$75 rate which the Commission asked the Agency to base the business case on. This gave an estimated cost for the rate change of \$6,446,450 – 36% less than the \$10,000,000 number provided to the Commission, and presumably to the Legislative Fiscal Office.¹⁴ I am frustrated and befuddled at the series of events that have brought us to the point where we find ourselves today, where we no longer have confidence in the assertion nor the fiscal analysis of those in the Agency performing the analysis.

It appears to me that in the context of a separate but related misrepresentation regarding how the Agency reached the rates in policy 404.060.002¹⁵, during the same period of time the OPDC CFO and budget analysts ignored the Commission’s order to present a business case for an

¹³ On 2/22/2024 I made a public record request for the total number of hours paid for non staff (NRE or CSS) fact investigation in a recent 24 month period. Gabriel Dougherty responded, sharing with me that the agency had numbers for a recent 12 month period, for the fiscal year ending on between July 1, 2021 and June 30, 2023. According to the Dougherty email, in that 12 month period the Agency paid for 249.540 hours of NRE/CSS fact investigation.

¹⁴ This does not take into account the projected number of hours in the 15.5 months which would already be paid at \$75/hr. This rate not only includes new cases of unrepresented incarcerated defendants prior to June 20, 2024, but also hours billed in the remaining 15.5 months of the biennium for ongoing cases involving incarcerated defendants on the unrepresented list. This also does not take into account the number of projected hours of NRE/CSS investigation that are offset by the new state public defense investigator positions. To date, the new offices have reportedly taken on 80 cases over the last four months. Based on these additional factors that do not seem to have been considered, a realistic projection of the cost of an increase in the investigator rate from \$55 to \$75 would be significantly lower than \$6,445,450 number projected under a more basic analysis.

¹⁵ Policy 404.060.002, Schedule of Guideline Amounts (Credentials included), Effective date 1/1/2024: “This document covers rates paid by the Office of Public Defense Services to vendors for services provided in public defense cases. These rates reflect information gathered from several states including Nevada, Washington, California and Idaho and entities including United States Courts, U.S. Bureau of Labor and Statistics and follow budget constraints of the agency”.

increase from \$55/hr to \$75/hr, and instead presented to the Commission and to Legislative Officials an inflated round number of \$10 million which was not supported by evidence or true analysis. It is possible that for some reason the Agency chose to perform analysis based on a retroactive payment to the beginning of the biennium, ignoring all other factors outlined in footnote 13. However, this would not account for the oddly round number, the fact that the Commission did not ask for an analysis of the cost of retroactive payment, and the fact that the Agency has summarily declined to pay providers retroactive pay increases when requested.

The Agency appears to have actively made efforts to hide the existence of the document entitled “Public Defense Services Commission, 82nd Legislative Assembly – Even-year session budget planning, November 16, 2023,” containing the \$10 million projection. When the information was requested by public records request, the agency claimed that it did not exist at all. This is a violation of ORS 192.324 (2) (a). By not acknowledging the existence of the document but claiming an exemption, the public was left with no legal means to appeal any denial. It appears to me that the Agency attempted to hide the existence of the document because those who prepared the document knew that the analysis was incomplete and not responsive to what the Commission had ordered the Agency to produce.

A cynical person might surmise that the Agency artificially inflated the cost of a rate increase in an effort to subvert the Commission’s desire to raise the rates. At the very least, this is an example of extremely poor analysis, whether it was due to nefarious intent or gross incompetence.

Taken alone, this is of great concern. Providers, their advocates and the public have a right to clear and accurate analysis and projection in budgetary matters. The combination of this example of shoddy analysis, the misrepresentation presented to the Commission over three months and included in policy 404.060.002, and the attempt to keep this budgetary document from the public show a pattern of behavior that shocks the conscience and greatly diminishes the faith of providers, legislators and the public in state government.

Request for accountability

I ask the Agency to take material action against those responsible for the misrepresentation, faulty or nonexistent analysis, wholesale disregard for direction from the Commission, and the attempt to hid responsive documents from the public. It is impossible for OPDC to emerge as a better, stronger, and viable state agency without legislative and public faith in the agency’s analysis and transparency.

This pattern of events and actions calls into question the validity of all budget projections presented by the Agency staff, in the 2023 session, the recently concluded 2024 session, and the upcoming 2025 session, along with all related interim legislative budget matters.

Provider Analysis of Oct 2024 – June 2025 rate increase cost

On May 17, 2024 I made a public record request to OPDC, requesting the number of hours paid for fact and mitigation investigation at the “enhanced” (\$55, \$60, \$65 or \$70 per hour) vs “non

enhanced” (\$75 per hour) rate, in order to estimate the cost of an increase to the base rate for all investigation to \$75 per hour.

Based on the response to my request¹⁶, I learned that between 12/20/2023 and 5/20/2024, the Agency has paid for 42392 hours of fact investigation at the non-enhanced rate, and 1817 hours for mitigation investigation at the non-enhanced rate.

Using this information¹⁷, I determined that the agency has been using an average of 8478 hours of non-enhanced rate fact investigation per month, and 363 hours of non-enhanced rate of mitigation investigation per month.¹⁸

Based on that, I determined that for a 9 month period (October, 1 2024 – June 30, 2024) the agency would use approximately 76306 fact investigation hours, and 3271 mitigation investigation hours. I multiplied the number of hours by the respective increase amounts that a \$75 per hour base rate would require (\$20 for fact investigation, going from \$55 to \$75, and \$5 for mitigation investigation, going from \$70 to \$75) and obtained the following results:

Cost for increase from \$55 per hour to \$75 per hour for fact investigation for 9 months:	\$1,526,512
Cost for increase from \$70 per hour to \$75 per hour for mitigation investigation for 9 months:	\$16,353
Total cost increase to change the base investigation rate to \$75 per hour for 9 months:	\$1,542,465

Request for analysis and Emergency Board.

Fact and Mitigation investigation providers request that the Commission direct the Agency to seek funding at the September emergency board to raise investigator rates to a base level of \$75 per hour.

We have been asking for a rate adjustment to pay us the equivalent of what was paid in 1985, and what has been established by the recent Moss Adams Salary Study as the mid point market rate for public defense investigation in Oregon.

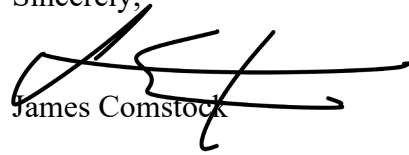
¹⁶ See attached email from Eric Deitrick dated May 20, 2024 with accompanying attachment. Please note that per Mr. Deitrick’s email, the attachment prepared by the Agency “data team” contains a typo, and that the data is from 12/20/2023 through 5/20/2024 – not 5/20/2023.

¹⁷ Curiously in addition to the requested data, the attachment contained the following statement: “Third parties, whether they be providers, state agencies, or other stakeholders, should not extrapolate this data for other purposes.” I am confused by this statement, as it seems to attempt to discourage the public from using the data. The Agency has no authority to dictate how information belonging to the public and obtained via public record request is used. If the Agency lacks confidence in the accuracy of its own data, they should say so. If the Agency wishes to discourage members of the public from using publicly available data to perform fiscal analysis or to verify the Agency’s own analysis, this is troubling in an entirely different way. I suggest that the Commission and Agency leadership inquire as to the reason for the inclusion of this statement, and to report to the public the reasoning behind its inclusion in the response to a public records request.

We request that the Commission direct the Agency to perform meaningful, transparent and verifiable analysis that can be shared with the public and which can be replicated, and that the Commission ensure that its directives are followed.

My colleagues and I remain available to assist the Commission or the Agency in taking the necessary steps to correct the low rates of indigent defense providers in Oregon.

Sincerely,

A handwritten signature in black ink, appearing to be 'James Comstock', written over the printed name. The signature is stylized with a large, sweeping initial 'J' and 'C'.

James Comstock



James Comstock <jamesbcomstock@gmail.com>

Confirmation: OPDC Public Records Request

oregon-gov-web-services@egov.com <oregon-gov-web-services@egov.com>
To: jamesbcomstock@gmail.com

Wed, Jan 24, 2024 at 9:53 AM

Thank you for submitting a public records request. The request has been sent to the General Counsel at OPDC for review. Pursuant to ORS 192.324, you will receive a written confirmation within 5 days of this request that confirms whether OPDC is the custodian of the public record requested. OPDC may charge fees reasonably calculated to reimburse the agency for actual costs associated with making public records available. OPDC will inform you of the cost for providing these public records and may require prepayment as a condition of receiving these records.

Requestor Name:	James Comstock
Organization:	Insight Legal Investigation
Address:	PO Box 230204
Address2:	
City:	Portland
State:	OR
Zip:	97281
Phone:	5035100559
Email:	jamesbcomstock@gmail.com
Describe Your Request:	<p>In the PDSC Meeting on 9/21/23 the commission voted to: "...direct the agency to prepare the business plan to take to the short session or E board to ask to bring the wages up to \$75 or whatever the rate should be to be closer to parity with the other public defense systems." I submitted a public records request on January 4 2024 stating: "I am making a request for correspondence between OPDS and the Legislative Fiscal Office in October, November and/or December with financial analysis for proposed requests for the 2025 legislative session. I am requesting the letters and any related fiscal analysis. I am not asking for every single email between OPDS and LFO, rather, my understanding is that analysis was sent to LFO in at least two of these three months outlining the fiscal impact of various possible requests. I am asking for that correspondence. (Mr. Deitrick clarified that I meant to write the 2024 legislative session in a follow up email. The 2025 was a typographical error) I received a response to this which, while helpful, does not appear to me to contain any analysis regarding the investigator rate. I know that OPDS elected to not proceed with requesting a higher rate for investigators in the short session or at any eminent eBoard meetings. That said, I understood from statements made in subsequent PDSC meetings that the decision to not seek any increased rate was made based on fiscal analysis and input from the Legislative Fiscal Office, who I assumed had received that analysis. By this public records request, I am asking for records, reports, spreadsheets, emails, or other correspondence relating to OPDS actions resulting from the PDSC request regarding investigator rates in the 9/21/23 meeting. Thank you</p>
If you are seeking a fee waiver or reduction, please	

explain how making the requested records available is in the public interest and how you will disseminate the information contained in the records.

Submission ID: b2eb2cde-1942-4c8f-881f-539cd4bcfb5f

Record ID:



James Comstock <jamesbcomstock@gmail.com>

FW: OPDC Public Records Request

Eric J. Deitrick <Eric.J.Deitrick@opds.state.or.us>
To: James Comstock <jamesbcomstock@gmail.com>

Tue, Jan 30, 2024 at 3:17 PM

James –

I have forwarded this on to our budget folks and will see if there is anything additional to produce.

Thanks,

Eric



Eric J. Deitrick
General Counsel
198 Commercial Street SE
Salem, Oregon 97301
Mobile: 503-910-0434

*****CONFIDENTIALITY NOTICE*****

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Thank you!

From: oregon-gov-web-services@egov.com <oregon-gov-web-services@egov.com>
Sent: Wednesday, January 24, 2024 9:54 AM
To: Eric J. Deitrick <Eric.J.Deitrick@opds.state.or.us>
Subject: OPDC Public Records Request

Requestor Name:	James Comstock
-----------------	----------------

Organization:	Insight Legal Investigation
Address:	PO Box 230204
Address2:	
City:	Portland
State:	OR
Zip:	97281
Phone:	5035100559
Email:	jamesbcomstock@gmail.com
Describe Your Request:	<p>In the PDSC Meeting on 9/21/23 the commission voted to: "...direct the agency to prepare the business plan to take to the short session or E board to ask to bring the wages up to \$75 or whatever the rate should be to be closer to parity with the other public defense systems." I submitted a public records request on January 4 2024 stating: "I am making a request for correspondence between OPDS and the Legislative Fiscal Office in October, November and/or December with financial analysis for proposed requests for the 2025 legislative session. I am requesting the letters and any related fiscal analysis. I am not asking for every single email between OPDS and LFO, rather, my understanding is that analysis was sent to LFO in at least two of these three months outlining the fiscal impact of various possible requests. I am asking for that correspondence. (Mr. Deitrick clarified that I meant to write the 2024 legislative session in a follow up email. The 2025 was a typographical error) I received a response to this which, while helpful, does not appear to me to contain any analysis regarding the investigator rate. I know that OPDS elected to not proceed with requesting a higher rate for investigators in the short session or at any eminent eBoard meetings. That said, I understood from statements made in subsequent PDSC meetings that the decision to not seek any increased rate was made based on fiscal analysis and input from the Legislative Fiscal Office, who I assumed had received that analysis. By this public records request, I am asking for records, reports, spreadsheets, emails, or other correspondence relating to OPDS actions resulting from the PDSC request regarding investigator rates in the 9/21/23 meeting. Thank you</p>
If you are seeking a fee waiver or reduction, please explain how making the requested records available is in the public interest and how you will disseminate the information	

contained in the records.

Submission ID: b2eb2cde-1942-4c8f-881f-539cd4bcfb5f

Record ID:

2 attachments



OREGON OFFICE OF
**Public
Defense
Services**

image001.jpg
20K

 **formsubmission.csv**
3K



James Comstock <jamesbcomstock@gmail.com>

FW: OPDC Public Records Request

Eric J. Deitrick <Eric.J.Deitrick@opds.state.or.us>
To: James Comstock <jamesbcomstock@gmail.com>

Tue, Feb 6, 2024 at 3:30 PM

James –

I checked with our budget folks, and we do not have additional records to provide in response to your request. To provide an update, we have procured a contract with Moss Adams (as required by SB 337) to conduct a salary survey and economic analysis to make recommendations on hourly rates for attorneys. The analysis will also include recommendations for investigators and other public defense providers. That report is due to the agency by April 30, 2024, and it will inform the agency’s policy option packages for the ’25 budget ask.

Please let me know if you have additional questions.

[Quoted text hidden]

2 attachments





James Comstock <jamesbcomstock@gmail.com>

Investigator rate analysis question

James Comstock <jamesbcomstock@gmail.com>
To: Jennifer.Nash@opdc.state.or.us

Thu, Feb 8, 2024 at 6:26 PM

Chair Nash,

Thank you for your comments yesterday. My colleagues and I are pleased with the commitment by the agency to improve transparency in process and to remedy the incorrect information that was included in the policy.

On a different but somewhat related note, I wanted to follow up with you on a situation that has both me and my colleagues confused.

We understand from comments in the PDSC meetings toward the end of 2023 that the agency felt that they could not request \$75/hr for investigators in the 2024 short session. That said, in preparation for our efforts to lobby for a rate increase in the 2025 session, we wanted to see the analysis that OPDS did to reach that conclusion.

On January 4, 2024 I sent the following public records request to OPDC:

"I am making a request for correspondence between OPDS and the Legislative Fiscal Office in October, November and/or December with financial analysis for proposed requests for the 2025 legislative session. I am requesting the letters and any related fiscal analysis. I am not asking for every single email between OPDS and LFO, rather, my understanding is that analysis was sent to LFO in at least two of these three months outlining the fiscal impact of various possible requests. I am asking for that correspondence."

(Mr. Deitrick kindly pointed out my typo - where I wrote 2024 when I meant 2025, and honored the request with that correction)

I received 17 documents in response to this request. While those documents were very interesting and helpful generally, after searching them exhaustively, I could not find any direct analysis of what the cost for a rate increase to \$75/hr for non staff (CSS) investigators might be if that had been requested in the 2024 short session.

On January 24, 2024, I made the following public records request to OPDC:

"In the PDSC Meeting on 9/21/23 the commission voted to: "...direct the agency to prepare the business plan to take to the short session or E board to ask to bring the wages up to \$75 or whatever the rate should be to be closer to parity with the other public defense systems." I submitted a public records request on January 4 2024 stating: "I am making a request for correspondence between OPDS and the Legislative Fiscal Office in October, November and/or December with financial analysis for proposed requests for the 2025 legislative session. I am requesting the letters and any related fiscal analysis. I am not asking for every single email between OPDS and LFO, rather, my understanding is that analysis was sent to LFO in at least two of these three months outlining the fiscal impact of various possible requests. I am asking for that correspondence. (Mr. Deitrick clarified that I meant to write the 2024 legislative session in a follow up email. The 2025 was a typographical error) I received a response to this which, while helpful, does not appear to me to contain any analysis regarding the investigator rate. I know that OPDS elected to not proceed with requesting a higher rate for investigators in the short session or at any eminent eBoard meetings. That said, I understood from statements made in subsequent PDSC meetings that the decision to not seek any increased rate was made based on fiscal analysis and input from the Legislative Fiscal Office, who I assumed had received that analysis. By this public records request, I am asking for records, reports, spreadsheets, emails, or other correspondence relating to OPDS actions resulting from the PDSC request regarding investigator rates in the 9/21/23 meeting. Thank you"

Mr. Deitrick responded on January 30, stating:

"James –

I have forwarded this on to our budget folks and will see if there is anything additional to produce.

Thanks,

Eric"

On February 6, 2024 I received the following response:

"James –

I checked with our budget folks, and we do not have additional records to provide in response to your request. To provide an update, we have procured a contract with Moss Adams (as required by SB 337) to conduct a salary survey and economic analysis to make recommendations on hourly rates for attorneys. The analysis will also include recommendations for investigators and other public defense providers. That report is due to the agency by April 30, 2024, and it will inform the agency's policy option packages for the '25 budget ask.

Please let me know if you have additional questions."

I am confused as it does not seem that the agency is able to produce analysis of the possible cost of an increase from \$55/hr to \$75/hr for fact and mitigation investigators.

Can you help me to find out if the agency did this analysis that they seemed to have referred to in Commission meetings?

It isn't clear to me if the analysis doesn't exist, or if it does exist and the agency has for some reason not produced it in response to my request. I think my request should cover documentation of that analysis if it does exist - and if it does exist but the agency believes that it is exempt from disclosure, it would have to respond with confirmation of the existence of the record while citing the exemption that they are claiming per ORS 192.329 (2) (b)

I apologize for bothering you with this, but it is important to my colleagues to see the analysis if it exists, or if it was not done, to then understand why it wasn't done, and I don't know what else to ask OPDC given the assertion that the documents that I am seeking do not exist. I feel like I have exhausted my options on this with the agency, and appealing to the DOJ as the statute suggests for public records matters regarding executive branch agencies seems untoward to me at this point.

Thank you again for your selfless service and support of public defense.

James

James Comstock
DPSST #52647

Insight Legal Investigation
[503 765 8050](tel:5037658050)

www.insightli.com



James Comstock <jamesbcomstock@gmail.com>

FW: OPDC Public Records Request

Eric J. Deitrick <Eric.J.Deitrick@opds.state.or.us>
To: James Comstock <jamesbcomstock@gmail.com>

Mon, Mar 11, 2024 at 3:23 PM

James –

Following up on this request, and thanks for talking on the phone right now. OPDC's position is that the attached document is a public document exempt from disclosure pursuant to ORS 192.355(1). However, the agency is willing to waive that exemption and in order to provide you with the relevant information regarding requests for investigation funding. Here you go. Please let me know if you have additional questions.

[Quoted text hidden]

2 attachments

image001.jpg
20K



2024 Session Needs 103023_Redacted.pdf
127K

Public Defense Services Commission

82nd Legislative Assembly - Even-year session budget planning

November 16, 2023

ISSUE	SUMMARY CROSS-REFERENCE	ISSUE EXPLANATION	FUND	FUNDING SOURCE	SOURCE AMOUNT	AMOUNT	POSITION	FTE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
GENERAL FUND REQUESTS, NET OF CARRYFORWARD / REBALANCE						[REDACTED]	[REDACTED]	[REDACTED]
OTHER FUNDS REQUESTS						[REDACTED]	[REDACTED]	[REDACTED]

FUNDING SOURCE	FUNDING DESCRIPTION	PRESUMPTIVELY APPROPRIATED	PLANNED	AVAILABLE
SPA A	Contracted caseload changes	[REDACTED]	[REDACTED]	[REDACTED]
SPA B	Public defense, generally	[REDACTED]	[REDACTED]	[REDACTED]
SPA C	Executive branch transition	[REDACTED]	[REDACTED]	[REDACTED]
SPA D	Unrepresented persons	[REDACTED]	[REDACTED]	[REDACTED]
Carryforward	2021 - 2023 Biennium's General Fund savings	[REDACTED]	[REDACTED]	[REDACTED]
Limitation	Other funds limitation to spend cash	[REDACTED]	[REDACTED]	[REDACTED]
Unfunded requests		[REDACTED]	[REDACTED]	[REDACTED]
TOTAL FUNDING SOURCES		[REDACTED]	[REDACTED]	[REDACTED]

Public Defense Services Commission

82nd Legislative Assembly - Even-year session budget planning

November 16, 2023

ISSUE		SUMMARY CROSS-REFERENCE	ISSUE EXPLANATION	FUND	FUNDING SOURCE	SOURCE AMOUNT	AMOUNT	POSITION	FTE
1a	Rebalance	400-00	Adult Trial Division	General	N/A	0	15,000,000	0	0.00
			Fund second fiscal year's training, supervision, and investigation; and fund changes in attorney qualifications and FTE.						
1b	Rebalance	415-00	Juvenile Trial Division	General	N/A	0	-1,000,000	0	0.00
			Reallocate savings to Adult Trial Division.						
1c	Rebalance	450-00	Court Mandated Expenses	General	N/A	0	-10,000,000	0	0.00
			Reallocate savings to Adult Trial Division.						
1d	Rebalance	500-00	Parent Child Rep. Program	General	N/A	0	-4,000,000	0	0.00
			Reallocate savings to Adult Trial Division.						
2a	Pilot office	400-00	Adult Trial Division	General	SPA B	1,995,614	1,995,614	9	4.50
			Introduces \$1.4 million in personal services and \$569,167 in S&S for nine new positions (4.50 FTE). This includes but is not limited to a new office lease in Salem and multiple vehicle leases for investigators.						
2b	Pilot office	400-00	Adult Trial Division	General	SPA B	678,848	678,848	0	0.00
			Covers \$515,322 in additional S&S not already provided in SB 337, including but not limited to rent for a new office lease in Portland and multiple vehicle leases for investigators. Personal Services are also increased by \$163,526.						
2c	Pilot office	400-00	Adult Trial Division	General	SPA B	260,253	260,253	0	0.00
			Covers approximately \$251,842 in additional S&S not already provided in SB 337, including but not limited to rent for a new office lease in Roseburg and multiple vehicle leases for investigators. Personal Services are also increased by \$8,411.						
4	Workforce	400-00	Adult Trial Division	General	Unfunded requests		35,447,108	0	0.00
			Augments legal representation by ancilliary services provided by social workers, case managers, and paralegals as a means of providing robust legal services to indigent persons facing prosecution.						

Public Defense Services Commission

82nd Legislative Assembly - Even-year session budget planning

November 16, 2023

ISSUE	SUMMARY CROSS-REFERENCE		ISSUE EXPLANATION	FUND	FUNDING SOURCE	SOURCE AMOUNT	AMOUNT	POSITION	FTE
3	Procurement	600-00	Administrative Services Div.	General	SPA B	411,614	411,614	3	1.63
4	IT services	600-00	Administrative Services Div.	General	SPA C	1,303,482	1,303,482	7	4.41
5	Administration	600-00	Administrative Services Div.	General	SPA C	152,965	152,965	1	0.63
6	Policy	100-00	Executive Division	General	SPA C	134,948	134,948	1	0.50
7	Administration	100-00	Executive Division	General	SPA C	170,214	170,214	1	0.50

Public Defense Services Commission

82nd Legislative Assembly - Even-year session budget planning

November 16, 2023

ISSUE	SUMMARY CROSS-REFERENCE		ISSUE EXPLANATION	FUND	FUNDING SOURCE	SOURCE AMOUNT	AMOUNT	POSITION	FTE
8	Administration	100-00 Executive Division	Executive Branch Transition consultant. The consultant will primarily be responsible in marshaling resources to the transition in the executive branch. The responsibilities will be substantially similar to those performed by the Department of Early Learning and Care's consultant.	General	SPA C	200,000	200,000	0	0.00
9	Rate changes	425-00 Preauthorized Expenses	Increase investigator rates to 75 and 80 dollars per hour for monolingual and multilingual investigators, respectively. (Deliberated by the commission on October 26, 2023.)	General	Unfunded requests		10,000,000	0	0.00
10	Rate changes	450-00 Court Mandated Expenses	Increase tier 1 and tier 2 attorney rates. (Deliberated by the commission on October 26, 2023.)	General	Carryforward	10,000,000	10,000,000	0	0.00
11	Carryforward	000-00 Pub. Defense Svcs. Comm.	Disappropriation of General Fund savings that expired on June 30, 2023, and appropriation of the same in the current biennium as a potential funding source.	General	N/A	11,988,480	11,988,480	0	0.00
12	Limitation	450-00 Court Mandated Expenses	Agency needs other funds limitation in order to spend a refund in discovery by Marion County. Refund is recognized as cash in the public defense services account.	Other	Limitation	583,281	583,281	0	0.00
13	Administration	200-00 Compliance Audit Performance	Administrative specialist 2. This position is to coordinate all training for all attorneys performing public defense for the State of Oregon. This position will also track and update certifications.	General	SPA B	130,460	130,460	1	0.63
14	Administration	200-00 Compliance Audit Performance	Administrative specialist 2. This position will work with a deputy general counsel to develop, track, monitor and manage the complaint process for attorneys and the individuals that qualify for representation.	General	SPA B	130,460	130,460	1	0.63

Public Defense Services Commission

82nd Legislative Assembly - Even-year session budget planning

November 16, 2023

ISSUE	SUMMARY CROSS-REFERENCE			ISSUE EXPLANATION	FUND	FUNDING SOURCE	SOURCE AMOUNT	AMOUNT	POSITION	FTE
15	Administration	200-00	Compliance Audit Performance	Operations and policy analyst 2. This position will be engaged in the servicing the issues of the unrepresented persons crisis and the temporary hourly increase program.	General	SPA B	157,253	157,253	1	0.63
16	Administration	600-00	Administrative Services Div.	Human Resources Analyst 3. This position will handle HRIS administration, classification/compensation, and position management.	General	SPA B	157,253	183,518	1	0.63
17	Administration	600-00	Administrative Services Div.	Human Resources Analyst 2. This position will conduct recruitment and employee engagement.	General	SPA C	131,596	131,596	1	0.50
GENERAL FUND REQUESTS, NET OF CARRYFORWARD / REBALANCE								61,488,333	27	15.19
OTHER FUNDS REQUESTS								583,281	0	0

FUNDING SOURCE	FUNDING DESCRIPTION	PRESUMPTIVELY APPROPRIATED	PLANNED	AVAILABLE
SPA A	Contracted caseload changes	3,000,000	0	3,000,000
SPA B	Public defense, generally	6,170,768	3,948,020	2,222,748
SPA C	Executive branch transition	5,000,000	2,093,205	2,906,795
SPA D	Unrepresented persons	5,000,000	0	5,000,000
Carryforward	2021 - 2023 Biennium's General Fund savings	11,988,480	10,000,000	1,988,480
Limitation	Other funds limitation to spend cash	0	583,281	-583,281
Unfunded requests		0	45,447,108	-45,447,108
TOTAL FUNDING SOURCES		31,159,248	62,071,614	-30,912,366



James Comstock <jamesbcomstock@gmail.com>

FW: OPDC Public Records Request

Gabriel D. Dougherty <Gabriel.D.Dougherty@opds.state.or.us>

Fri, Feb 23, 2024 at 8:11 AM

To: James Comstock <jamesbcomstock@gmail.com>, "Eric J. Deitrick" <Eric.J.Deitrick@opds.state.or.us>

James,

The agency reimbursed approximately 249,540 hours of investigative services performed by service providers or vendors for a total cost 10,300,769.20 dollars in fiscal year ended June 30, 2023. In the same period, 223 unique vendors performed those services, resulting in an average of 1,119 hours of investigative services performed by each vendor.

Let me know if you want the prior fiscal year's ended. Last biennium started July 1, 2021, and stretched to June 30, 2023. The first fiscal year ended of last biennium terminated on June 30, 2022.

Gabe

From: James Comstock <jamesbcomstock@gmail.com>**Sent:** Thursday, February 22, 2024 3:33 PM**To:** Eric J. Deitrick <Eric.J.Deitrick@opds.state.or.us>**Cc:** Gabriel D. Dougherty <Gabriel.D.Dougherty@opds.state.or.us>**Subject:** Re: FW: OPDC Public Records Request

You don't often get email from jamesbcomstock@gmail.com. [Learn why this is important](#)

[Quoted text hidden]



James Comstock <jamesbcomstock@gmail.com>

FW: OPDC Public Records Request

Eric J. Deitrick <Eric.J.Deitrick@opdc.state.or.us>
To: James Comstock <jamesbcomstock@gmail.com>

Mon, May 20, 2024 at 3:23 PM

That's a typo. It says 12/20 23 to 5/20/23. It supposed to be 5/20/24.



Eric J. Deitrick
General Counsel
198 Commercial Street SE
Salem, Oregon 97301
Mobile: 503-910-0434

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Thank you!

From: James Comstock <jamesbcomstock@gmail.com>
Sent: Monday, May 20, 2024 3:21 PM
To: Eric J. Deitrick <Eric.J.Deitrick@opdc.state.or.us>
Subject: Re: OPDC Public Records Request

Thank you. I appreciate this, but it is quite dated as it is a year old (2023)

Is similar information available for a more recent time period?

I'm not at all trying to be obtuse - I am interested in what percentage of investigation hours are being more currently paid at the enhanced rate. I don't need it to be up to the minute, but ideally ending within the last few months, as I am not sure that the percentage has remained the same from last year to the present.

On Mon, May 20, 2024 at 3:16 PM Eric J. Deitrick <Eric.J.Deitrick@opdc.state.or.us> wrote:

James –

I asked our data team about your request and they produced the attached report.

Thanks,

Eric



Eric J. Deitrick
 General Counsel
 198 Commercial Street SE
 Salem, Oregon 97301
 Mobile: 503-910-0434

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Thank you!

From: Eric J. Deitrick
Sent: Monday, May 20, 2024 8:58 AM
To: James Comstock <jamesbcomstock@gmail.com>
Subject: FW: OPDC Public Records Request

James –

This email acknowledges receipt of your request. I will follow up with folks on our data team to see if this is something that can be readily put together, and I'll report back.

Thanks,

Eric



Eric J. Deitrick
 General Counsel
 198 Commercial Street SE
 Salem, Oregon 97301

Mobile: 503-910-0434

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Thank you!

From: oregon-gov-web-services@egov.com <oregon-gov-web-services@egov.com>
Sent: Friday, May 17, 2024 1:38 PM
To: Eric J. Deitrick <Eric.J.Deitrick@opdc.state.or.us>
Subject: OPDC Public Records Request

Requestor Name:	James Comstock
Organization:	Insight Legal Investigation
Address:	PO Box 230204
Address2:	
City:	Portland
State:	OR
Zip:	97281
Phone:	5035100559
Email:	jamesbcomstock@gmail.com
Describe Your Request:	I am requesting the number of hours for a recent six month time period (I'm flexible on the exact time period for the convenience of the Agency in responding, as long as the data is current within a few months. I can be flexible on the number of months if needed - for example 4 or 5 months if that is more convenient): Total fact investigator hours paid at \$55 per hour, Total fact investigator hours paid at \$60

	per hour Total fact investigator hours paid at \$75 per hour Total mitigation investigator hours paid at \$65 per hour Total mitigation investigator hours paid at \$70 per hour Total mitigation investigator hours paid at \$75 per hour
If you are seeking a fee waiver or reduction, please explain how making the requested records available is in the public interest and how you will disseminate the information contained in the records.	

Submission ID: 8bd8af17-f4f0-4fc0-bbf1-1628fbc5b04b

Record ID:



OREGON OFFICE OF
**Public
Defense
Services**

image001.jpg
20K



May 20, 2024

This report was compiled by the Oregon Public Defense Commission for the purpose of fulfilling a public records request. It shows the number of Investigation and Mitigation hours billed per each rate requested.

This data comes from OPDC records compiled between 12/20/2023 and 5/20/2023.

Third parties, whether they be providers, state agencies, or other stakeholders, should not extrapolate this data for other purposes.

Description	\$55	\$60	\$65	\$70	\$75	Total
INVESTIGATION FEES	41,453.92	939.14			170.20	42,563.26
INVESTIGATION FEES - ENHANCED					17,029.71	17,029.71
MITIGATION			1,094.55	723.10	747.60	2,565.25
Total	41,453.92	939.14	1,094.55	723.10	17,947.51	62,158.22

May 20, 2024

James Comstock
Insight Legal Investigation
jamesbcomstock@gmail.com
503 765 8050

Dear Commissioners,

My colleagues and I appreciated the comments from several Commissioners in the March 8 2024 OPDC meeting regarding the continued delayed payment times from the Agency. After more than 5 years of battling this issue across multiple people in agency leadership positions, we are at a loss. I write today to propose solutions which would rapidly remedy this issue, and which can be implemented at once.

I firmly believe that the lack of material consequence for late payment for the agency has been the impediment to improvement. To put it another way, the agency lacks motivation to improve for at least two reasons:

- **There is no material fiscal consequence for late payment.**
 - The agency has agreed to pay 8% per annum interest on invoices unpaid after 45 days. The amount paid is negligible¹, and the agency process for receiving this paltry amount is cumbersome and out of line with the statute².
- **Continued slow payment has given the Agency a reason to request more staff.**
 - Since we have raised this issue, the Agency has gone from 4 Accounts Payable staff to 9³.
 - More staff has resulted in upward reclassification for managers. The Agency has received more staff, and managers were reclassified up between 2020 and 2021 as a result.
 - Despite more than doubling staff, and reclassifying managers based on the additional staff, over 5 years later the agency has still been unable to sustain timely payments to providers.

We are very aware that the number of invoices that the Agency will receive is about to massively increase as more attorney providers are switched to hourly billing. Based on things that the Agency has said we are greatly concerned that with the current system the Agency is woefully unprepared, and we are on the cusp of payments times becoming much much worse than they have ever been.

Along with my colleagues, I am asking the Commission to IMMEDIATELY take direct action to remedy the current problem and to attempt to prevent future delays as the number of invoices increases.

¹ As an example: An invoice for \$2,500 that is paid at 60 days would receive \$8.22 in late fees, or about \$.55 per day past 45 days.

² See attached 4/10/2024 email from Klint Mallery. Note that the agency wishes to start counting days for this purpose when the bill passes "pre audit", not upon submission. This is not in line with statute. The Agency also directs providers to submit the interest charge on a future bill. This is also not in line with statute. The late fees are due when the bill is paid.

³ See attached email from Eric Deitrick dated 4/22/21.

Late Fees

The Agency has taken the position that the only remedy that providers have for late payment is to charge a late fee of 8% per annum for payments received after 45 days. This amount is not material, and places no incentive on the Agency to improve. We appreciate the comments of the Commission regarding late fees. The Agency has interpreted ORS 293.462 (4) to say that they are prohibited from paying late fees. I respectfully disagree. I believe that ORS 293.462 sets an amount that the agency may pay, but I do not believe that it precludes the Agency from implementing a policy that pays a more significant late fee after any payment time that the Agency chooses.

We deeply appreciate the comments from Commissioner Linigar, Commissioner Prozanski, and Commissioner Wright regarding the use of late fees to motivate the Agency to pay on time, and to allow providers to be made whole for the loss of the time value of their money.

Based on that, I ask this Commission to direct the agency to pay a late fee of 10% of the gross amount of an invoice if it has not been paid to the provider 30 calendar days from the date that the invoice is submitted. Together with the initial late fee, we ask for an additional 10% late fee for every 14 calendar days past 30 days for which the invoice is not paid.

To be clear, we do not wish to have to charge any late fees at all. We simply wish to be paid consistently in 30 days or less. We feel that the proposed late fees would be sufficient to motivate the Agency to pay in a timely manner, while also making providers whole in the event that the agency fails to fulfill its obligation to pay invoices in a timely manner, which appears to be easily accomplished by all the other state agencies in the Oregon.

Payment process solution

It appears to my colleagues and I that OPDC struggles to pay providers in a timely manner because of over auditing, and auditing for immaterial things such as inclusion of a mailing address. We have suggested changes to the agency that would allow the agency to protect itself from material amounts of error due to oversight or attempts at fraud, but to our knowledge none of our suggestions have been implemented.

Rather than continue to try to help the agency to fix its problematic auditing practices, **we ask the Commission to order the agency today to begin paying provider invoices immediately after the initial pre-audit.** The agency will then be free to audit invoices after payment in as much detail as they choose or can afford without causing providers to wait to be paid for work already performed and expenses already paid on behalf of the agency. If material errors are found in a post payment audit, the Agency may require providers to pay back any overpayment. Enforcement is simple, as providers may not be allowed to be paid for future invoices until any overpayment is rectified.

We firmly believe that this is the fastest and most effective way to address the problem, as payments would go from over 45 days to less than 10 days virtually overnight upon implementation. As Mr. Amador said in the May 8th Commission meeting, (2:04 in the meeting video) ***“If we could just pay bills, we could get them out a whole lot quicker. I guarantee it”***.

We exhort the Commission to direct Mr. Amador to do that very thing. Mr. Amador expressed concern about having to correct errors later – we would submit that this would occur in a relatively small percentage of invoices, and that it is far preferable to delaying every single invoice due to slow auditing before payment.

Emergency plan

Since October 2nd 2020⁴ I have repeatedly implored the Agency to create and implement a business continuity plan for payment processing. To date, - over three years after first bringing this to the Agency's attention, and repeated follow up letters to the Agency and the Commission, the Agency has not implemented any such plan.

I ask the Commission to order the agency to create and implement a plan to ensure continued payment of invoices in the event of natural disaster, pandemic, facility damage, staff leave, holidays, and any other reason that the Agency has given for slow payment over the course of the last three years. I ask that the Commission order the agency to do this within 90 days at the most.

In its newsletter, the agency has said "*The agency asks for your grace*" with regard to service requests and payment processing. This language has been included in the March and April newsletters sent out by the Agency.

To be blunt, **Providers have given the agency more than 5 years of grace in this matter** – starting with when Lane Borg asked for our grace and patience regarding slow payment in his meeting with providers on April 26, 2019⁵.

The agency has shown that it is either unwilling or incapable of fixing this issue, even with more than double the staff that it had when the problem began. The monthly reassurance from the Agency in newsletters and Commission meetings that they are trying to improve and that success is around the corner is no longer worth anything at all. **We implore the Commission to act now, and obligate the Agency to take immediate action that will immediately address this pernicious problem.**

My colleagues and I have been and remain willing to work with the agency in this regard, and we welcome any interaction from the Agency so that we might help fix this issue.

Sincerely,



James Comstock

⁴ 10/2/2020 memo, James Comstock to Per Ramfjord, PDSC chair entitled "OPDS Payment issues".

⁵ 10/2/2020 memo, James Comstock to Per Ramfjord, PDSC chair entitled "OPDS Payment issues", see page 2, Slow and unpredictable payment times.



James Comstock <jamesbcomstock@gmail.com>

Fwd: Payment issue

Suzanne Swift <s.swift@swiftinvestigation.com>
To: james@comstocklegal.com

Wed, Apr 10, 2024 at 5:16 PM

Here's the whole thing

Suzanne Swift
PI #112923
SWIFT INVESTIGATION
s.swift@swiftinvestigation.com
Swiftinvestigation.com

----- Forwarded message -----

From: **Accounts Payable Mailbox** <AccountsPayable@opds.state.or.us>
Date: Wed, Apr 10, 2024 at 2:39 PM
Subject: RE: Payment issue
To: Suzanne Swift <s.swift@swiftinvestigation.com>, Accounts Payable Mailbox <AccountsPayable@opds.state.or.us>

There is no form. You can submit it on your next billing. Please add it to Tab 6 Out of Pocket Expenses Summary in the area where it says "Other Out of Pocket Expenses". You then need to document on your invoice, information regarding the payment you feel we owe a late payment on so we will know and can look into it.

Here is the OAM info:

OAM 15.40.00 - Accounting and Financial Reporting - Expenses, Expenditures, and Payables

105. Agencies are responsible to pay vendors and contractors in a timely manner. When paying past due invoices, payment of interest charges shall not exceed limits established by statute.

Prompt Payment

114. Invoices from vendors and contractors should be paid promptly. The date of the check or warrant is used to determine if the claim was paid timely. Overdue charges are recorded separately from other expenses or expenditures.

115. For private vendors providing goods and services, payment will be made within 45 days. Overdue charges are paid at a rate of two-thirds of one percent per month, not to exceed eight percent per annum. Overdue claims are those that have not been paid within 45 days from the latest of the following dates:

a. The date of receipt of the invoice.

- b. The date of the initial billing statement, if no invoice is received.
- c. The date the claim is made certain by agreement of the parties or by law.

116. For contractors performing on public contracts, payment will be made within 30 days. If not paid within 30 days, interest is paid on the amount due the contractor, not including retainage. Overdue charges are paid at a rate of three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank, not to exceed thirty percent. The date from which interest shall be calculated is the earlier of the following dates:

- a. Thirty days after receipt of the invoice from the contractor.
- b. Fifteen days after the payment is approved by the agency.

Klint Mallery

Accounting Technician 2- Intake Specialist

Oregon Public Defense Commission

198 Commercial Street, Suite #200

Salem, Oregon 97301

From: Suzanne Swift <s.swift@swiftinvestigation.com>
Sent: Wednesday, April 10, 2024 1:10 PM
To: Accounts Payable Mailbox <AccountsPayable@opds.state.or.us>
Subject: Re: Payment issue

Thank you for finding that information. What is the process for requesting late fees? Is there a form? How is it submitted?

PI #112923
SWIFT INVESTIGATION
s.swift@swiftinvestigation.com
Swiftinvestigation.com

On Wed, Apr 10, 2024 at 12:57 PM Accounts Payable Mailbox <AccountsPayable@opds.state.or.us> wrote:

Good afternoon.

Thank you for taking the time to ask this because I did not know and had to inquire with someone that did so it allowed me a learning opportunity.

The information I obtained is as follows:

We do pay late fees upon request, but it is late fee's per the Oregon Accounting Manual only. Eligibility for late fees per the OAM start on day 46, from the official received date where their billing passed pre-audit.

So as an example, if billing was successfully submitted on 3/1/24, the late fees would be eligible on day 46 with the OAM's formula. I have included that formula below.

Interest Calculation:

Amount Due x Annual Interest x (# of days past due/365 days)

Daily Interest Rate Calculation:

8% Annually / 365 days is $0.08 / 365 = 0.000219$ daily (0.0219%)

Amount Due x 0.000219 x # of days past due = Interest due

Rate of 2/3 of 1% = 0.006667% month x 12 months = 0.08 or 8% Annually

If you have any other questions, please contact us. We're more than happy to help.

You have a wonderful day.

Klint Mallery

Accounting Technician 2- Intake Specialist

Oregon Public Defense Commission

198 Commercial Street, Suite #200

Salem, Oregon 97301

From: Suzanne Swift <s.swift@swiftinvestigation.com>
Sent: Tuesday, April 9, 2024 4:49 PM
To: Accounts Payable Mailbox <AccountsPayable@opds.state.or.us>
Subject: Re: Payment issue

You don't often get email from s.swift@swiftinvestigation.com. [Learn why this is important](#)

Hi, I do have a question actually. That seems like it will push the payment into drastically past due (over 45 days) and will incur a late fee or interest. What is the process for requesting a late fee from OPDC?

PI #112923
SWIFT INVESTIGATION
s.swift@swiftinvestigation.com
Swiftinvestigation.com

On Tue, Apr 9, 2024 at 1:32 PM Accounts Payable Mailbox <AccountsPayable@opds.state.or.us> wrote:

Good afternoon.

We are currently processing submissions from 2/26/24.

If you have any questions please contact us.

You have a good day.

Klint Mallery

Accounting Technician 2- Intake Specialist

Oregon Public Defense Commission

198 Commercial Street, Suite #200

Salem, Oregon 97301

From: Suzanne Swift <s.swift@swiftinvestigation.com>
Sent: Tuesday, April 9, 2024 11:44 AM
To: Accounts Payable Mailbox <AccountsPayable@opds.state.or.us>
Subject: Payment issue

You don't often get email from s.swift@swiftinvestigation.com. [Learn why this is important](#)

Payment for this invoice is past due. Payment was due 3/29/24.

Confirmation #: AP-0078666

Begin Invoice Service Date: 2024-02-01

End Invoice Service Date: 2024-02-29

CSS #: 423946

Trial Court Case Number: 23CR62173

Suzanne Swift

PI #112923

SWIFT INVESTIGATION

s.swift@swiftinvestigation.com

Swiftinvestigation.com



James Comstock <jamesbcomstock@gmail.com>

FW: OPDS Public Records Request

Eric J. Deitrick <Eric.J.Deitrick@opds.state.or.us>
 To: James Comstock <jamesbcomstock@gmail.com>

Thu, Apr 22, 2021 at 4:03 PM

James –

I am hoping this information satisfies your request. I think I understand what you are trying to ascertain. Let me know if it does not.

Currently, we have 9 people in Accounts Payable. Below is there name, classification, and salary. Karla Bethell supervises the group. Of these positions, 2 accounting techs 2 came from the '19-'21 PDSC budget effective July 1, 2019. 2 accounting tech 2s, and the Manager 1 position, came from the SPA, which was authorized by the Emergency Board of the legislature in April 2020.

At this time, I am not in a position to tell you which person was previously in the agency, who left the agency, and when. But this information shows that we had funding for 4 positions prior to July 1, 2019. That was increased to 6 funded positions on July 1, 2019. And that was increased to 9 funded position in April 2020.

Thanks,

Eric

Employee Name	Classification	Salary
BAKER, SHARI	Accountant 1	6,232.00
LULAY, MCKENZIE	Accountant 1	4,653.00
DELACRUZ, MELISSA	Accounting Technician 2	5,128.00
HANDLEY, BRYA	Accounting Technician 2	3,824.00
MCCLELLAND, KRISTEN	Accounting Technician 2	4,351.00

TEMPLETON, ANDREA	Accounting Technician 2	4,219.00
WARDEN, SANDRA	Accounting Technician 2	4,219.00
MCCARTER, PATTI A	Accounting Technician 3	5,383.00
OVERTURF, NICHOLE	Accounting Technician 3	4,795.00
BETHELL, KARLA	Manager 1	8,857.00

[Quoted text hidden]

 **formsubmission.csv**
2K



Memo

October 2nd, 2020

To: Per Ramfjord
Chair, Oregon Public Defense Service Commission

From: James Comstock
Investigator

Re: OPDS Payment Issues

I am sending this memo to all Public Defense Services Commission members, frankly as a courtesy.

The issues outlined here have reached a point where Public Defense providers are meeting regularly and actively preparing to take what I would consider somewhat drastic action out of desperation. Providers, including attorneys, investigators and mitigators, are angry and frustrated. Providers feel that OPDS has, perhaps unintentionally, misled them about this matter over the last 18+ months. I am aware of providers who out of sheer frustration are preparing to address these shortcomings **with their own legislators, members of the House and Senate Judiciary Committees, members of the Ways and Means Committee, and with Senate and House leadership.** While I do not believe that that is the most constructive way to address this problem, I understand their frustration. I am hopeful that by bringing these matters and proposals to the attention of the Commission, these long-standing issues can be effectively addressed internally.

I am reluctant to speak of these problems in a public forum as frankly as I will in this memo, as I fear that people involved with legislative activity whose interests are not aligned with public defense will use the information in the legislative process to attempt to decrease funding and independence for OPDS.

That said, I attempted to bring this matter to the attention of the Commission at the September meeting, and, perhaps due to the format of the meeting, or perhaps because I was less explicit in a public forum, I do not feel that the message was received in a way that conveyed the imminent risk and urgency. **I cannot overemphasize the fact that absent some substantive and visible action to address these issues, I believe that various provider groups who are regularly meeting will be contacting legislators within weeks if not days.**

I am not sending a copy of this to OPDS, not because I do not wish for them to see it, but because I am aware that LFO is working with them in close proximity, and I do not believe that it is in the interest of Public Defense for me to share this frank assessment in a manner that is likely to get back to LFO. I have no issue with telling these things to OPDS staff verbally, (as I have shared nearly all of this with some of

them already), and I do not object to Commissioners sharing this information with OPDS as you deem prudent.

Problems:

Slow and unpredictable payment times

OPDS payment timing has been slow, and unpredictable for more than 18 months. After expressing concerns for several months in email and in other less formal ways, investigators and mitigators began formally addressing concerns about this in a meeting with Lane Borg in April of 2019.

We understand that increased need for invoice auditing to detect fraud, an antiquated system, and problems with staffing have contributed to longer processing times.

We understand and appreciate that OPDS has taken steps to attempt to address these issues.

Having said that, we have reached a point where something else must be done.

The recent additional delays in payment which appear to be related to wildfire evacuation and smoke issues have brought the urgency of this problem into sharp focus.

I am requesting that OPDS take action to address this now longstanding and increasingly critical problem, by taking action on the following items:

Create and implement an emergency disaster plan to ensure timely payment of invoices in the event of emergencies which impede access to the OPDS offices by staff.

I understand from Julie Fetsch's statements during the biweekly OPDS call with providers on September 22nd that OPDS does not have a business continuity plan in place to continue critical accounting operations in the event of an emergency. Business continuity plans are common best practice, and perhaps even required in state government in Oregon, and creation and implementation of a plan is essential for an agency charged with paying public defense providers without whom the justice system cannot function.

In the September 22nd call, Ms. Fetsch stated that current operations do not allow accounts payable staff to process payments from home due to proprietary state accounting systems and other constraints. I am aware that the Oregon Judicial Department Business and Fiscal Services Division currently has all payment processing staff working from home, and that with the exception of having a person come in occasionally to pick up hard copy invoices sent in by post, all of the accounts payable tasks may be accomplished remotely. I see no reason why OPDS cannot do the same with accounts payable staff, as the state accounting systems and accounting standards used by both are the same.

Set a standard maximum time of 30 calendar days by which NRE invoices must be processed, with a target of 20 calendar days on average, to allow for variation in processing time due to staffing changes, emergencies, and changes in workload while still completing all payments within a maximum of 30 days.

I am aware that OPDS has been paying approximately \$70,000 per month to OJD for staff and consulting services related to IT systems for many months. I know that these OJD resources are available and able to implement similar systems in OPDS that would allow payments to be processed in OPDS in a similar manner in which they are processed in OJD.

I suggest that OPDS utilize the OJD resources to implement stop gap improvements to the current accounts payable system as an interim solution while the full new process of creating, purchasing and implementing a new system is pending.

I am aware that OJD's IT Division, ETSD, and created relatively simple programs to assist in billing for the OJCIN program and for Court Interpreter Billings. These programs eliminate need for the kinds of processes (such as pen and paper auditing, and manual adding machine calculations) that are currently slowing the OPDS NRE system. Creation of these kinds of simple systems are not impeded by the state procurement process or the Oracle settlement. The large amount of money being paid monthly to OJD for IT services should easily allow for the incorporation of something like this.

I believe that it is critical to eliminate the printed paper, adding machine, and handwritten portions of the current invoice auditing and payment process in order to improve the accuracy of the auditing process, and to decrease the FTE needed to process invoices in a timely and consistent manner. The lack of efficiency (as demonstrated by the continued need for more staff, and the difficulty in improving processing time) and lack of effective auditing processes (as demonstrated by the recent accidental discovery of apparent fraudulent billing which went on undetected for an embarrassingly long time) both show that the current system is so poor that OPDS cannot wait for a full system replacement to take corrective action. I firmly believe that it is possible to not only improve auditing capability and payment processing time, but also at the same time to significantly reduce the amount of FTE required in accounts payable in OPDS.

History of payment delay issues

In April of 2019 providers were told that the payment delays were due staff turnover, training issues, space issues, and poor morale. It has been 17 months since that meeting, and we continue to hear that staffing is an issue causing the inconsistency and delay, and that there is little hope for material improvement without a new system. I believe that at best, a full new system is years away, and at worst, budget cuts will indefinitely delay a costly new system as it has been described.

I firmly believe that with a relatively minor investment of time and money – likely less than \$10,000 in software cost, the current pen and paper manual system could be vastly improved. While I am aware of the complications in enterprise system procurement related to the Oracle settlement, I am also aware that there are little to no restrictions on small projects that would be a great improvement over a system that has manual elements that are frankly wasteful and irresponsible in modern state government.

I believe that members of the commission would be shocked if they were shown, step by step, the true nature of the current Accounts Payable process in OPDS.

Request for report and accountability

I am asking the Commission to have OPDS report monthly to the Commission and the public in written form (by email or posted to the OPDS website) the minimum, maximum, and average time that it has taken to process a bill in the prior month. I would like to see these performance metrics posted every month until bill processing times have been improved to reach a target, and that improvement has been maintained for at least 6 months.

My intention is to continue to address this matter either directly, or along with other providers in the public comment of every Commission meeting until there is significant improvement on this matter.

ODCA

My name is Sal Peralta. I am the Executive Director of the Oregon Defense Consortia Association which represents more than 200 private attorneys and consortia that hold public defense contracts with the state.

Thank you for your service to the state and in particular for your work for the agency. I have appreciated the willingness of this board to hold the agency accountable for its performance.

First, I wanted to make a point about feedback in meetings like this one. Across all of the organizations we represent, our attorneys are operating at or above full capacity. The reason so many attorneys and organizations have joined our association – something like 1/3rd of your total workforce – is to facilitate their ability to negotiate and bargain collectively with the agency and to ensure the agency understands the significant alignment that the private bar has around equity issues and basic fairness in contracting and around things like caseload.

As I indicated to the Commission in my written testimony for the May meeting, the charts comparing compensation rates under the annual contract and the hourly contract present a false comparison.

The numerator for the rate calculated for the **annual attorney contract** is 2080, and based on FTE (page 15 in packet).¹

- **Annual Contract Attorneys**
 - Calculated across the Attorney 1 through Attorney 4 position FTE funding rates for the 2023-25 contracts.
 - The median hourly rate is \$111 per hour.

However, compensation to firms for attorney services under an hourly contract are limited to **case-billable hours, not FTE hours. The standard OPDC adopted for case-billable hours going forward is 1578, not 2080.**

In order to generate an “apples to apples” workforce compensation comparison, what needs to be compared is an hourly rate based on the expected caseload under a 2080 hour FTE contract. That caseload is the one adopted by the commission: 1578.

That number was not picked out of a hat. The commission adopted a workload standard that is currently being applied to the Oregon DOJ workforce and that will likely be part of all annual contracts going forward, both within the agency’s own workforce, and the workforce entitled to continue under annual contracts.

¹ [OPDC Meeting Packet, page 15](#)

The method for determining that caseload method is the one recommended in both the RAND national study and in the Missouri Crisis Study from which the number originated. Here is the calculus Missouri applied to determine its annual caseload standard, which was based on a 45-hour work week (i.e., 2340 rather than 2080):

Attorney Hours Available for Case Work:

For purposes of this protocol, the annual available attorney hours in an office operating within a caseload crisis, is 2340 hours or 45 hours per week per attorney. To determine the number of those hours available for handling cases, deduct the hours used in non-case-related matters as set out above. Averages (rounded to the nearest ½ hour) that apply statewide can be deducted up front, as follows:

2340	ANNUAL AVAILABLE HOURS PER ATTORNEY
-320.5	AVERAGE NON-CASE-RELATED TASKS [13.7% of 2340]
-216	AVERAGE HOLIDAYS & ANNUAL LEAVE
- 51.5	AVERAGE ATTORNEY SICK LEAVE [2.2%]
<u>1752</u>	AVERAGE AVAILABLE HOURS PER ATTORNEY PER YEAR
	OR
438	PER ATTORNEY PER THREE-MONTH INTERVAL

The Oregon Department of Justice applied a similar calculation to arrive at the standard adopted by OPDC.

The chart below compares compensation rates for the current workforce. The 4 columns on the right are annual contract rates for attorneys based on their qualification level.

As you can see, based on a caseload expectation of 1578, the hourly compensation rates for attorney services under the annual contract is comparable or slightly higher than the compensation rates for attorney services under the hourly rate.

	Current Rate	Current Rate	Current Att 1	Current Att 2	Current Att 3	Current Att 4
Billable Hours	Misdemeanor	Felony	Misdemeanor	Mis/Minor Fel	Felony	Felony
	\$130.00	\$145.00	\$213,085.00	\$224,182.00	\$235,280.00	\$246,378.00
1578	\$ 130.00	\$ 145.00	\$ 135.03	\$ 142.07	\$ 149.10	\$ 156.13
2080	\$ 130.00	\$ 145.00	\$ 102.44	\$ 107.78	\$ 113.12	\$ 118.45

I urge the commission to direct staff to base rate comparisons in these documents based on the correct “apples to apples” comparison, using 1578 as a comparator, not 2080.

Sal Peralta

Executive Director
Oregon Defense Consortia Association