

TESTIMONY OF EDWARD JONES
INTERIM EXECUTIVE DIRECTOR OF
THE OFFICE OF PUBLIC DEFENSE SERVICES
before the
JUDICIARY COMMITTEES
September 22, 2021

I'm Edward Jones, until recently I was merely a retired Circuit Court Judge, now I'm the interim executive director of the Office of Public Defense Services.

Last session, HB5030 gave OPDS a budget of \$321 million (plus \$14 million in Other Funds) and added another \$100 million in a SPA which OPDS would only earn by achieving certain goals set out in budget notes. It is not an exaggeration to say those notes called for a complete re-organization of the agency. In addition, another bill from last session, HB2003, also set new expectations for agency performance. I am here today to provide a first report on our progress toward those goals.

First, let me say those notes and expectations were justified. OPDS has not been an effective partner in the budget process, and OPDS does not have the ability to provide the accountability its budget and responsibilities require.

5030 and 2003 were both partly inspired by the Sixth Amendment Center's 2019 report on trial level representation in Oregon's courts. The 238-page report reviews trial level representation statewide and provides a detailed analysis of trial level representation in seven of our 26 judicial districts.

There were two key findings:

First, OPDS fails to provide oversight and accountability sufficient to ensure effective assistance of trial level counsel.

Second, OPDS flat fee payment system creates a conflict between lawyers' self-interest and their client's needs, contrary to national public defense standards.

The first of these raises the same concerns as our budget notes and will be addressed by me momentarily.

As to the second of these, OPDS has changed our contract model from the flat fee case credit system disapproved of in the Sixth Amendment report to a caseload system. While the change has its costs and complications, moving to the caseload system is a significant improvement in the way we compensate our contract attorneys.

HB5030 recognized that OPDS did not have sufficient staff to achieve the improved budgeting, oversight and accountability that was needed. New positions were included in the bill.

OPDS has hired Brian DeForest, previously the Chief Administrative Officer at DAS, to fill our new Deputy Director position and Ralph Amador, previously at DHS, DOR and OHA, as our Finance Manager. These individuals bring years of state budget experience to OPDS and under their leadership OPDS will become a reliable partner in the budget process. The legislature will know what we need and what facts support that need. We will improve our ability to forecast what we need and to account for what we spend.

One of our budget notes directs the creation of a Compliance, Audit, and Performance (CAP) Management Division at OPDS. This division, which includes two newly funded internal auditors, is intended to address the lack of oversight and accountability that was of concern to both the legislature and the Sixth Amendment Center.

Along with the new auditors, two other newly created positions will have quality assurance as the focus of their work. The Juvenile Trial Counsel and the Criminal Trial Counsel will develop and manage oversight, monitoring and quality assurance programs for our trial level juvenile and criminal contract providers. They will rely on research and provider engagement to identify, collect, and analyze data to track and assess provider performance and contract compliance, including adherence to state and national standards of representation.

The challenges of a major reorganization, including the creation of the CAP program and the related need to develop a sustained stakeholder engagement process, led OPDS to seek professional help for change management, strategic planning, and stakeholder engagement. After consideration of multiple proposals OPDS has hired the Coraggio Group to provide that help.

With Coraggio Group's help OPDS will build a durable engagement process, which will gather key perspectives from clients, providers, and the organizations and groups with which OPDS interacts. To ensure an equitable and inclusive process that includes individuals and organizations at every touchpoint of OPDS's service delivery, the process will start with a comprehensive survey.

The survey data will help inform the questions and themes for later community focus group discussions and stakeholder interviews. The focus groups are the backbone of the process and will provide stakeholders with key perspectives an opportunity to provide a deeper level of input. The Coraggio team will also conduct interviews with individual stakeholders to provide an additional mechanism for in-depth input.

The Coraggio Group will develop key insights and themes from that engagement data and return for additional feedback from providers and stakeholders regarding those themes and insights. The goal is a transparent and accountable process that provides repeated and routine opportunities for reflection and input.

Out of engagement comes the clear expectations and shared understanding of the necessary work that makes effective quality assurance possible.

Turning to other budget notes, OPDS has hired a CIO and started the in-sourcing of base level information technology services, it is aligning its contract cycle with the biennial budget process, and it will achieve the separation of adult criminal and juvenile trial-level contracts by the June 2022 deadline.

Another note directed OPDS to undertake an external audit with the assistance of the Secretary of State's Audit Division. Discussions about the scope of that audit are now underway.

As noted above, OPDS was also directed to hire auditors and create an internal audit capacity. To ensure this newly created audit capacity fulfills its goals, OPDS has retained Ms. Pam Powers to help design and build the program.

Ms. Powers spent 18 years as an auditor for Oregon State Government, including roles as Chief Audit Executive for the Oregon Lottery and the Oregon Department of Administrative Services. She will consult with both the commission and the agency to make sure their practices and policies, and those of the audit staff, are consistent with professional standards.

Knowing that this committee has much on its agenda, I have limited this discussion to the highpoints of our activities. I would be pleased to address any questions from committee members or provide any documents that committee members would like to review. I look forward to appearing before you in November with a more detailed report about our efforts and our successes.