

TESTIMONY OF EDWARD JONES
INTERIM EXECUTIVE DIRECTOR OF
THE OFFICE OF PUBLIC DEFENSE SERVICES
before the
HOUSE JUDICIARY COMMITTEE
November 16, 2021

Chair Bynum, Vice Chairs Power and Noble, members of the Judiciary Committee, I'm Edward Jones. Since June I have been the interim executive director of the Office of Public Defense Services. I'm here, first, to report on OPDS's compliance with our extensive budget notes, but before I get into that I want to announce that OPDS has hired my replacement. Steve Singer, from New Orleans, will be our new executive director. Steve graduated from Harvard Law in 1988 and has been a defender and a law professor, most recently at Loyola Law School, where he taught criminal law and managed their criminal law clinic. After Katrina he was asked to help recreate the defender system in New Orleans and was instrumental in its restoration. His official start will be January 3, but even before then he and our new government relations manager, Autumn Shreve, will be looking for opportunities to meet with legislators and staff.

Now to our budget notes. Last session, HB5030 gave OPDS a budget of \$321 million (plus \$18 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 call for a complete re-organization of the agency. In addition, another bill from last session, HB2003, also set new expectations for agency performance.

Those notes and expectations were justified. OPDS had not been an effective partner in the budget process, and OPDS had not been able 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.

There were two key findings:

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

Second, OPDS's 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 those issues raises the same concerns as HB5030 (our agency budget notes) and will be addressed by me momentarily.

As to the second of issue, 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. OPDS is aware of the stress imposed on the courts and other stakeholder by the transformation and intends to be patient and cooperative as the new approach is refined.

HB5030 recognized that if OPDS was to achieve the improved budgeting, oversight, and accountability that was needed there would have to be an increase in staff. So new positions were included in the bill.

I've already mentioned two of our new hires, but there are two others I should mention. Brian DeForest, previously the Chief Administrative Officer at DAS, was hired to fill our new Deputy Director position and Ralph Amador, previously at DHS, DOR and OHA, was hired as our Finance Manager. These two individuals bring years of state budget experience to OPDS and under their leadership OPDS will improve its ability to forecast what we need and to account for what we spend. We are committed to being a reliable partner in the budget process.

One of our budget notes directs the creation of a Compliance, Audit, and Performance (CAP) Division at OPDS. This division, which also includes two 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.

It turns out that qualified internal auditors are hard to find. But I'm pleased to announce that OPDS has hired Latham Stack as Chief Audit Executive, he comes to us from the Department of Education. He will establish and organize the Internal Audit unit; draft the annual risk assessment; and complete the statement of work for the independent external audit which OPDS is directed to undertake in another budget note. That audit will be provided to the Joint Legislative Audit Committee in September of 2022.

Along with the auditors, two other newly created positions will have quality assurance and attorney support and training as the focus of their work. The Juvenile Trial Counsel and the Criminal Trial Counsel will develop and manage training 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. These positions are open and close at the end of this month.

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 organizational development, change management, strategic planning, and stakeholder engagement. After considering multiple proposals, OPDS hired the Coraggio Group to provide that help.

The Coraggio Group is assisting OPDS in (1) clarifying and reorganizing its processes, operations, and structure to support the broad mandate of CAP division, (2) identifying and resolving key process and financial risks, (3) developing an equity framework to ensure the final agency structure is anchored in equity, and (4)

change management. The Coraggio Group is also assisting OPDS in broadly engaging its internal and external stakeholders, including public-defense clients, so the modernization effort is inclusive, transparent, and responsive to the needs of communities we serve.

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.

One other project worth mentioning is the mandate created by SB 578 which directs OPDS to fund lawyers for respondents in protective proceedings such as guardianships. This program will start in two counties in January and go statewide in January of 2024. OPDS is working with the courts and the probate bar to get this program underway. It is, at present, unfunded.

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.

Thank you for your time.