

ANALYSIS

Item 8: Public Defense Commission Remediation Plan

Analyst: John Borden

Request: Acknowledge receipt of a report on a comprehensive remediation plan.

Analysis: The budget report for SB 5532 (2023), the primary budget measure for the Public Defense Commission (PDC), included the following budget note:

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

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

The genesis of the budget note was the Legislature's desire to understand and support PDC's efforts to restructure and modernize the agency. A modern and well-functioning administrative agency is essential to the effective delivery of state public defense services.

The third iteration of PDC's remediation plan continues to be of high and improving quality. The plan is more responsive to the direction of the budget note than prior iterations by including caseload, financial forecasts, and procurement activities.

PDC has developed a framework that articulates the breadth of the systemic issues that have faced the agency and the systemic changes required. The Public Defense Commission has reviewed the remediation plan and is making strides with the plan's recommended remedial actions. PDC's remediation plan outlines, in four previously identified categories, 25 of the agency's top issues to be remediated. These issues are framed by an overarching "unified goal," which is well stated:

...to restore credibility in the Commission as an efficient and effective administrator of Oregon's public defense system by stabilizing administration to enable OPDC to fulfill its mission of ensuring constitutionally competent and effective legal representation for persons eligible for a public defender.

The categories span from Oversight and Leadership, Agency Remediation, Efficiency and Effectiveness, to Accountability and Transparency. The current report notes 32 actions across governance, the provisioning of public defense services, communications, and organizational development that have been undertaken and completed. Since the Remediation Plan report in January 2024, these actions have included onboarding a new Commission and adopting bylaws, establishing three regional trial offices, adopting preauthorized expense policies, renewing a data sharing agreement with the Judicial Department, and hiring a contractor to develop strategic and transition plans.

PDC's remediation plan provides the agency with clear problem definition. Conceptually, the plan has identified many non-existent processes, procedures, and activities that need to be put into place or undertaken. The key to PDC maturing as an agency becomes dependent upon strong governance, the hiring and retention of competent, professional staff, and their actions and selection of solutions to resolve the 25 issues identified in the remediation plan. Only then can PDC mature to predicting and then proactively solving problems that arise. PDC's next report on the agency's remediation plan will be to the Emergency Board in September 2024.

Recommendation: The Legislative Fiscal Office recommends that the Emergency Board acknowledge receipt of the report.

08
Oregon Public Defense Commission
Gehringer

Request: Report on a Senate Bill 5532 (2023) budget note on the comprehensive remediation plan by the Oregon Public Defense Commission (OPDC).

Recommendation: The Oregon Public Defense Commission is not under Executive Branch budgetary authority.

Discussion: OPDC submitted a report updating the Legislature on the Commission's restructuring and modernization efforts, in compliance with the following Senate Bill 5532 (2023) budget note:

Budget Note:

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

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Senate Bill 337 (2023) changed the name of PDSC to the Oregon Public Defense Commission (OPDC), while specifying that OPDC "is a continuation of the Public Defense Services Commission and not a new authority." Therefore, the agency will be referred to as OPDC hereafter.

Similar to the agency's last quarterly report, the current report includes issue identification and discussion as outlined in the Senate Bill 5532 (2023) budget note including 25 issues for remediation. OPDC's plan for each issue area constitutes their remediation plan. Some themes across remediation efforts have emerged, including the importance of OPDC's strategic plan, the need for clearer and more transparent

communication, improved relationships with the providers and the legislature, and additional training opportunities for staff.

In their report to the Interim Joint Ways and Means Committee in January 2024, OPDC noted that the Commission held an onboarding retreat, created a subcommittee on governance, and held meetings dedicated to team building and governance. Moving forward, the agency plans to work with the consulting firm Moss Adams on organizational development and strategic planning over the spring and summer of 2024.



Oregon

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April 29, 2024

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

Dear Co-Chairs:

Nature of the Request

The Oregon Public Defense Commission (OPDC) requests that the committee accept the attached Remediation III report. The budget report for SB 5532 (2023) includes Budget Note #1: Comprehensive Remediation Plan:

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

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Agency Action

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

This report was approved at the OPDC meeting on April 17, 2024.

Action Requested

The Oregon Public Defense Commission requests acknowledgment and receipt of the attached report.

Legislation Affected

No legislation is affected.

Sincerely,



Jessica Kampfe
Executive Director

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

Oregon Public Defense Commission

REMEDIATION PLAN

Version III

APRIL 23, 2024

NATURE OF THE REPORT

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

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Executive Summary

The Oregon Public Defense Commission (OPDC) has been working on implementing reforms outlined in the Commission's Remediation Plan. Since submitting the Remediation Plan II report in January 2024, the Commission has made significant progress in addressing these issues.

Commission Governance

- Onboarded new Commission.
- Bylaws adopted at April meeting.
- Governance subcommittee established.
- Legislative subcommittee approved.

Public Defense

- Three regional trial offices established, including hiring attorneys and support staff.
- In custody, unrepresented numbers are trending downward, 75% lower than the peak in July 2023.
- Improved unrepresented persons processes – new handout available in eight languages.
- Launched a pilot program with three court administrators to streamline counsel assignment communication for in-custody unrepresented persons.
- New preauthorized expense (PAE) policies were adopted in April to streamline the process and reduce backlogs.
- First of two retention incentive payments set for April 2024.
- Salary study underway; results are due by the end of April.
- The Office of Economic Analysis (OEA) released the first [public defense caseload forecast](#) on April 15.
- Moss Adams delivered a six-year plan outlining a budgetary structure to implement workload standards. The Commission will consider the plan during the May meeting.
- Signed data share agreement with the Oregon Judicial Department to improve and streamline data sharing.

Communication

- Twice monthly 'office hours' for providers, covering data reporting, payments, and other rotating topics of interest.
- Hired communications specialist.
- Regular monthly newsletter going out to providers.
- Regular monthly internal newsletter to OPDC staff.
- The newsletter summarizing Commission actions is now going out post-Commission meetings.
- Weekly email to providers updating PAE processing times.

Organizational Development

- Contractor hired to develop strategic and transition plans (drafts due by June/final July).
- The new process and form allow public defense stakeholders to send notices to OPDC more transparently and efficiently.
- Weekly transition preparation meetings with the Governor's office.
- FCMS project back on track.
- Hired chief information officer.
- Hired facilities manager.

- The OPDC management team participates in the Ascent leadership/management training program.
- Beginning interview process for M365 and server administrator positions.
- Collaborating with Data Center Services (DCS), Enterprise Information Services (EIS), and Microsoft on high-level Executive Branch IT transition strategy.
- Establishing the first State of Oregon Network (non-OJD) for the Medford Office. This network will serve as a future technology design and standard for OPDC.
- Onboarded new senior policy and data operations analysts for quality control and quality assurance review.
- Revised or developed three policies and two procedures.

The following remediation report provides updates to the remediation plan submitted by OPDC on January 16, 2024, and heard by the Joint Committee on Ways and Means during the 2024 legislative session. Rather than republishing each issue's 10-point problem identification plans, the January [report](#). OPDC has restated the issue and objective and provides status, next steps, and timeline updates.

CASELOADS

Caseload appointment data (as of April 3, 2024) for the contract cycle beginning July 1, 2023.

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

FINANCIAL FORECASTS

<i>Month Ending February 2024</i>	LAB	Forecast	Variance	2024 Session Change
Administrative Services Division	\$24,568,388	\$22,620,363	\$1,948,025	\$2,030,232
Adult Trial Divison	\$267,580,283	\$267,677,230	(\$96,947)	\$22,428,096
Appellate Division	\$24,491,812	\$25,755,392	(\$1,263,580)	\$1,932,884
Compliance, Audit, and Performance Division	\$6,400,917	\$7,372,468	(\$971,551)	\$668,376
Court Mandated Expenses	\$4,449,667	\$4,449,667	\$76,098	\$8,719,295
Executive Division	\$4,163,436	\$4,294,991	(\$131,555)	\$483,996
Juvenile Trial Division	\$54,708,700	\$52,642,132	\$2,066,568	(\$3,481,261)
Preauthorized Expenses	\$54,837,646	\$54,624,713	\$212,933	\$3,780,040
Parent-Child Representation Program	\$60,678,092	\$55,885,313	\$4,792,779	(\$4,043,805)
Special Programs, Contracts, and Distributions	\$9,882,472	\$12,107,058	(\$2,224,586)	\$2,556,436
TOTAL FUNDS	\$578,875,023	\$574,466,839	\$4,408,184	\$35,074,289

PROCUREMENT – PROVIDER CONTRACTS

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

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

Below are the MAC totals used to determine the rebalance approved by the Legislature during the 2024 session. These are the contracted totals as of 12/31/24. This provides a starting place for comparison purposes. It then shows the MAC/FTE changes under the quarterly amendments made in April 2024 and the shift from the original MAC/FTE numbers as numbers and percentages.

Type	Level	MAC/FTE (as of 12.31.2023)	Amendments as of 4.12.24	Change from post 12.31.23	Percent Change from 12.31.23
Adult Trial Division					
Misdemeanor	Attorney 1 (Misdemeanor)	88.23	71.22	-17.01	-19.28%
Minor Felony	Attorney 2 (Minor Felony, Civil Commitment)	97.42	99.48	2.06	2.11%
Major Felony	Attorney 3 (Major Felony)	153.33	158.26	4.93	3.22%
Murder	Attorney 4 (Capital Murder, Murder)	115.87	121.62	5.75	4.96%
	Total	454.85	450.58	-4.27	-0.94%
Adult Trial Division - Statewide Contracts					
Post Conviction Relief/Habeas Corpus	Attorney 4	16.15	16.15	0	0.00%
Post Conviction Relief appeals	Attorney 4	4.65	4.65	0	0.00%
Civil commitment appeals	Attorney 4	2.5	2.5	0	0.00%
Civil commitment appeals-PSRB, Padilla Referral contract	Attorney 3	2.49	3.19	0.7	28.11%
PSRB requiring supervision	Attorney 2	1.6	0.9	-0.7	-43.75%
Murder	Attorney 4	14.79	13.01	-1.78	-12.04%
	Total	42.18	40.4	-1.78	-4.22%
Adult Trial Division - Supervision FTE					
	Supervisor-1	0	0	0	0.00%
	Supervisor-2	0.64	0.64	0	0.00%

	Supervisor-3	1.85	2.15	0.3	16.22%
	Supervisor-4	17.04	17.59	0.55	3.23%
	Total	19.53	20.38	0.85	4.35%
Adult Trial Division - Investigation FTE					
	Investigator	57.18	50.48	-6.7	-11.72%
	Total	57.18	50.48	-6.7	-11.72%
Adult Trial Total (Contracts, Statewide, & FTE)					
	Total	573.74	561.84	-11.9	-2.07%

Juvenile Trial Division						
	Misdemeanor	0	0	0	0.00%	
	Minor Felony	Attorney 2 (Delinquency)	5.57	4.22	-1.35	-24.24%
	Major Felony	Attorney 3 (Dependency, Dependency & Delinquency)	78.3	79.9	1.6	2.04%
	Murder	Attorney 4 (Murder)	11.29	11.34	0.05	0.44%
	Total		95.16	95.46	0.3	0.32%
Juvenile Trial Division - Statewide Contracts						
	Juvenile appeals	Attorney 4	2.8	2.8	0	0.00%
	Murder	Attorney 4	0.6	0.66	0.06	10.00%
	Total		3.4	3.46	0.06	1.76%
Juvenile Trial Division -Supervision FTE						
	Supervisor-1	0	0	0	0.00%	
	Supervisor-2	0	0	0	0.00%	
	Supervisor-3	0.43	0.43	0	0.00%	
	Supervisor-4	0.77	0.77	0	0.00%	
	Total	1.2	1.2	0	0.00%	
Juvenile Trial Division - Investigation FTE						
	Investigator	2.42	2.12	-0.3	-12.40%	
	Total	2.42	2.12	-0.3	-12.40%	
Juvenile Trial Total (Contracts, Statewide, & FTE)						
	Total	102.18	102.24	0.06	0.06%	

Parent-Child Representation Program						
	Juvenile Delinquency	PCR attorney	0.85	0.85	0	0.00%
	Dependency	PCR attorney	11.15	11.2	0.05	0.45%
	Termination of Parental Rights	PCR attorney	72.03	72.15	0.12	0.17%
	Non-practicing Administration	PCR attorney	0	0.15	0.15	NA
	Supervisor		2.77	2.53	-0.24	-8.66%
	Investigator		3.75	3.75	0	0.00%
	Total		90.55	90.63	0.08	0.09%

PCRP Hourly Providers*					
Contract Case Manager		6.8	6.5	-0.3	-4.41%
Independent Case Manager		17.8	19.2	1.4	7.87%
Case Manager Administrator	Level 1 Administrator	1	1	0	0.00%
Senior Case Manager Administrator	Level 2 Administrator	1	1	0	0.00%
*1 FTE = 1920 hours/year	Total	26.6	27.7	1.1	4.14%
PCRP Total (Contracts & Hourly FTE)					
	Total	117.15	118.33	1.18	1.01%
Total Contracted Providers					
	Total	793.07	782.41	-10.66	-1.34%

REMEDIATION PLAN

UNIFIED COMMISSION AND AGENCY

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

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

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

Next Steps: The Governance Subcommittee will monitor bylaws and recommend to the Commission what standing subcommittees, if any, should be established. The Commission will have additional in-person meetings with agency staff in the summer and fall of 2024. At the end of 2024, the Commission will evaluate its compliance with the Department of Administrative Services (DAS) Best Practices for Boards and Commissions.

Timeline: Spring 2024: Commission administrator starts.

Spring/Summer 2024: Strategic planning.

Nov/Dec 2024: DAS best practices.

COMMISSION OVERSIGHT

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

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

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

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

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

Next Steps: Work with Moss Adams on organizational development and strategic planning.

Timeline: Spring/Summer 2024: Strategic planning.

DECISIVE LEADERSHIP

Issue: Demonstrate decisive leadership and decision-making.

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

Status Update: The Commission has shown leadership and been proactive on public defense matters over the last quarter. The Commission submitted testimony and provided reliable fiscal analysis to the legislature regarding HB 4002 during the 2024 legislative session. OPDC continued to monitor policies impacting the number of unrepresented persons and took action to extend the Temporary Hourly Increase Program (THIP) to continue to address the unrepresented numbers. At the same time, state trial offices have been built. The Commission is also developing a six-year budget plan to responsibly respond to the mandates of SB 337 (2023).

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

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

March-June 2024: Six-year budget plan and adopting caseload and workload standards.

GAP ANALYSIS

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

Objective: Identify agency needs and opportunities for improvement.

Status Update: OPDC performed a second gap analysis and used the results to request the May Emergency Board. These requests focus on staffing and are predominantly IT and procurement-related.

Next Steps: Subsequent gap analyses should be performed quarterly to identify future needs and opportunities. The identified gaps will be taken to the Commission for approval. Depending on priority, resources to fill the gaps will be requested from special appropriation allocations (SPAs) during the September E-board meeting, or a plan will be built to address gaps in the 2025-27 budget request and beyond.

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

May 2024: Request positions at May emergency board.

June-July 2024: Hire gap analysis positions.

July 2024: Perform third gap analysis to identify needs for the September emergency board.

August 2024: The Commission approves September requests and takes requests to the emergency board.

September 2024: Request positions at the September emergency board.

October-November 2024: Hire approved gap analysis positions.

UPDATED GOVERNING STATUTES AND POLICY

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

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

Status Update: The Commission's efforts to adopt bylaws have led to areas where Commission members and staff believe additional clarity could be added to ORS Chapter 151. Additionally, statutory gaps have been identified as part of the rollout of the OPDC Trial Division offices. During the 2024 legislative session, OPDC was able to remedy one specific statutory gap by advocating for legislation that allowed the agency to establish client trust accounts.

Next Steps: Monitor the effectiveness of bylaws. Produce a list of needed statutory changes and divide it into changes with a fiscal impact and those without a budgetary impact.

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

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

STANDARD FINANCIAL PRACTICES

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

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

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

Next Steps: OPDC has been approved for additional accounting resources beginning July 1, 2024. The agency has taken steps to hire before July 1 using agency administrative savings. OPDC is also working with DAS on additional accounting assistance.

Timeline: May-June 2024: Additional staffing hired.

STANDARD HUMAN RESOURCE PRACTICES

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

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

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

Next Steps: Update and finalize the organizational chart to align operations with budgeted positions, ensuring that it also aligns with the Executive Branch as needed in preparation for the transition. Review governor expectations of Executive Branch agencies and focus on implementing those expectations.

Timeline: Nov 2023-Sep 2024: Review and update policies to align with the Executive Branch.

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

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

Feb 2024-Apr 2024: Develop employee onboarding process.

Apr 2024-Jun 2024: Employee satisfaction plan.

Apr 2024-Aug 2024: Employee development plan.

Apr 2024-Aug 2024: Employee training plan.

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

Jul 2024-Sep 2024: Develop agency succession plan.

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

STANDARD PROCUREMENT PRACTICES

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

Objective: Ensure conformity with state government procurement standards.

Status Update: Procurement and IT are the most significant change areas for OPDC. The agency has been exempted from procurement statutes since its inception. This has led to OPDC contracts being administered by program analysts, who also serve as program administrators. The result is that the same people technically responsible for contract administration are tasked with supporting providers in their contracts. This process has led to numerous monthly contract amendments to accommodate provider workload and qualification changes and address provider staffing issues. Due to the large volume of procurement work generated regularly, analysts cannot provide the oversight to monitor the program and adequately evaluate performance.

As OPDC has evolved, the lines of responsibility have blurred, and the division of labor, expertise, and decision-making has been compromised. Procurement staff must comply with procurement law and post procurements and manage the procurement process. At the same time, program analysts should perform contract administration, performance monitoring, and program development, including establishing policies and processes. Analysts have had to prioritize the contract work while setting aside the evaluation of the program outcomes to determine success. This dynamic places OPDC at risk as analysts are not focused on developing programmatic needs as OPDC grows from a pass-through agency to one that will not only contract with providers but also provide direct services. This process is cumbersome and creates a liability for OPDC when trying to report to the Legislature and account for caseloads and funding.

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

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

Timeline: May 2024: Request procurement positions.

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

April 2023-Sep 2024: Update and write policies to align with the Executive Branch.

Jul 2024-Dec 2024: Procurement training and certifications.

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

IMPROVED AGENCY CULTURE

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

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

Status Update: OPDC's management/leadership team participates in Ascent, a foundational management training program. To improve internal communications, OPDC is publishing monthly newsletters for all staff.

Next Steps: OPDC employee satisfaction survey. Develop professional development opportunities for staff.

Timeline: Apr 2024-Jun 2024: Employee satisfaction plan.

Apr 2024-Aug 2024: Employee development plan.

EFFICIENT AND EFFECTIVE PROGRAMMING

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

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

Status Update: Communication and coordination have improved in some agency areas. OPDC hired a communications specialist to increase agency communication both internally and externally. Examples of improved coordination:

- Weekly status updates on efforts to address accounts payable backlog.
- The data team has coordinated the unrepresented numbers, reviewed the process, and found ways to automate systems. A program is being piloted in three counties to test efficiencies.
- FCMS uses Asana, a project management tool, to better coordinate the project. The rest of OPDC uses Microsoft tools to collaborate better, including a more organized process for managing files.

Next Steps: Strategic planning and organizational development work. Additional clarification of roles and responsibilities to eliminate causes of duplicative or unfocused work. Implementation of OPDC's quality management plan is an essential step.

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

Mar 2024-July 2024: Strategic Planning.

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

IMPLEMENT FCMS

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

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

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

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

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

Next Project Steps:

RFP requirement work sessions are scheduled through mid-April to align and finish the requirement work for the RFP. In April, the business case, project charter, and schedule will be reviewed and finalized to plan for submission to EIS Stage Gate. Procurement resources are also being solidified and will be met in these coming weeks to align on the project. The primary focus is on the successful release of the RFP to move through the procurement process.

Timeline: March and April are designated for RFP requirement review and closure of open items missing from the RFP last November. Continuation of 30/60/90-day deliverables is also being monitored, with plans to deliver by May 12, 2024. Extensive tasks in the new Work Breakdown Schedule in Asana can be viewed in the FCMS status report the agency submitted for May Legislative Days with over 400+ detailed tasks to complete planned out through a targeted implementation of December 2024 with follow-up activities to close the project scheduled through June 2025. The final schedule is being worked on for approvals in April in the interim before vendor onboarding to align on significant movement forward for the project.

DATA-INFORMED DECISION-MAKING

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

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

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

Next Steps: Continue cross-sectional meetings with IT, Trial Support and Development, budgeting, and government relations.

Timeline: Ongoing

ACCURATE AND TIMELY VENDOR PAYMENTS

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

Objective: Ensure conformity with the state government's timely payment policy.

Status Update: Accounts Payable (AP) and Preauthorized Expense (PAE) units are experiencing backlogs. AP is processing bills approximately 40 days out, and the PAE unit is experiencing a similar delay. The delays are due to increased workload and the complexity of information due to recent policy changes. In addition, increases in attorney capacity without subsequent addition of back-office support have contributed to the increased backlog. Finally, the pace and material viewed impact the staff and create stress points in the system.

Next Steps: The agency has added temporary staff to the PAE unit. This includes hiring a temporary employee before a position can come online in July 2024. This also includes adding two contract temporary employees to help work on the intake of requests. AP has moved to a paperless process that, when normalized, should provide increased efficiency. AP staff continue to spend more time educating vendors about rate changes; many vendors were unaware of the inflationary increases that occurred and are not using the increased rates; this will be addressed in the next Office Hours meeting to discuss preauthorized expenses.

Mapping current PAE and AP processes and working with agency staff to identify inefficiencies that can be mitigated without creating substantial risk to the agency or harming vendors such as, changing the agency's practice of returning requests to the vendor for non-substantive reasons and shifting some verification tasks from AP to PAE so they can be complemented on the front end.

The Commission adopted new preauthorized expense policies in April to streamline the process and reduce backlogs. A short form can now be used for initial requests for psychologists to conduct aid and assist evaluations and for psychosexual evaluations for cases involving a sex offense. The number of investigative hours requested via short form has been increased for several case types. Vendor work can be initiated upon submission of the short form, and the rate for reimbursement will be the provider's existing rate for the service. The mileage for investigators on the PAE short form has been increased from 150 miles to 250 miles. Public defense providers may also be reimbursed for one-night lodging and meals per guideline rates if an emergency requires them to stay overnight to finish a task.

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

STRATEGIC PLAN

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

Objective: Establish a strategic plan for the Commission to base decision-making and planning.

Status Update: OPDC has contracted with Moss Adams to develop a new strategic plan to guide the Agency's major activities for the next five years. The plan will guide planning and operational changes related to OPDC's transition to the Executive Branch. It will identify organizational goals and objectives that align with the Executive Branch expectations laid out by the Governor's [January 11, 2023](#) letter.

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

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

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

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

INTERNAL QUALITY CONTROL AND AUDITS

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

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

Status Update: The internal audit function, apart from the Compliance, Audit, and Performance (CAP) program, has leveraged the existing agency Risk Assessment, feedback from the Legislative Subcommittee (February 8, 2024), and follow-up discussions with management to build a three-year internal audit plan for auditing risks within the agency (consistent with the Audit Committee charter). Successful execution of this plan will depend, in part, on OPDC's collective support of Internal Audit's recently adopted strategic goals and objectives. The goals and objectives are defined across four operational perspectives, similar to a balanced scorecard approach, to ensure a broad organizational reach. Apart from the goals and objectives, the three-year audit plan remains relevant through completing annual risk assessments, monthly meetings with management (and applicable stakeholders), trade group training, peer agency discussion forums, regional and national news publications, and insights gained from ongoing audit activity. When new risks are identified, Internal Audit will collaborate with OPDC management and the Audit Committee to ensure oversight of the identified internal risks and potentially reprioritize future audits to support agency needs.

Next Steps: The Audit Committee met on April 1, 2024, and approved the three-year audit plan and the strategic goals and objectives for the internal audit. Implementation of both plans is currently underway, and the initial status of each will be reported during the next reporting cycle. A voting member of the Commission has also joined the audit committee.

Timeline: The status of the two efforts will be discussed during each month's administrative meetings with OPDC management and each quarter with the Audit Committee. Applicable discussions will review progress, emerging trends or insights, access, training, or resource limitations.

DEVELOP INTERNAL DATA ANALYTICS

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

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

Status Update: OPDC, in partnership with DAS, is working collectively on the forecasting model. This will assist OPDC with developing 25- 27 budgets, reviewing existing data elements and tools across agencies, and collaborating on them.

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

Timeline: January 2024 – December 2024

DATA SECURITY AND INDEPENDENCE

Issue: Evaluate current data security and independence.

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

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

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

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

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

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

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

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

IT STRUCTURE

Issue: Evaluate the current IT structure and identify needs.

Objective: Ensure OPDC's Information Technology Section can fully support the agency.

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

Next Steps: Two new OPDC IT positions are in the hiring stage, and two additional positions are under recruitment. Stabilizing agency IT SMEs in strategic competency areas is essential before initiating a comprehensive assessment with DCS.

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

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

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

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

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

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

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

CAP: DEVELOP CAP PROGRAM

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

Objective: Create a CAP division that provides the Commission and the executive director with honest analyses and assessments of the public defense system and agency operations.

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

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

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

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

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

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

Ongoing: Regularly review all qualification and performance standards, metrics systems, and structures to identify areas for improvement and update.

CAP: PERFORMANCE STANDARDS

Issue: Develop standards for public defense providers based on national best practices and consider meaningful representation quality and performance measurement.

Objective: Clear standards for public defense providers in Oregon.

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

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

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

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

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

Ongoing: Regularly review all qualification and performance standards, metrics systems, and structures to identify areas for improvement and update.

CAP: AUDITS AND QUALITY CONTROL

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

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

Status Update: To implement quality control and expenditure audits, OPDC must first establish performance metrics. With metrics, CAP will know what to control or audit. The CAP division is not at this stage yet. Still, OPDC fully recognizes the importance of vendor compliance through quality control and expenditure audits of vendor contracts and agency expenses.

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

Timeline: June-Dec 2024

CAP: COMPLIANCE MEASURES

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

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

Status Update: Current compliance measures are limited. Contractors must submit monthly case reports, which the data and research team review for quality control/assurance. However, these reports are just case counts and not more in-depth quality control measures OPDC will implement in the future.

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

Once performance standards are in place, CAP will ensure compliance with standards and opportunities for improvement when standards still need to be met.

Timeline: June 2024 – December 2024

ACCOUNTABILITY TO LEGISLATURE

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

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

Status Update:

Legislative Direction

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

OPDC has created a meeting calendar to better align Commission meetings with legislative days and budget building. This will allow the Commission to give more meaningful input and direction to legislative reports and budget requests. OPDC has also established a legislative subcommittee responsible for reviewing legislative reports and making recommendations to the full committee. This will increase the Commission member's oversight and input into the legislative reports.

Legislative Budget

OPDC is adhering to the 2023-25 Legislatively Adopted Budget. During the 2024 short session, OPDC worked with LFO to build a fiscal plan for HB 4002 (2024).

OPDC submitted and was granted an agency-wide rebalance, clearly showing the cost within the Adult Trial Division, Juvenile Trial Division, and Parent-Child Representation Program.

OPDC created a return on capital (ROC) for all provider contracts, clearly delineating what is paid for each contract. Contract terms are posted on the OPDC website.

Next Steps:

Legislative Direction

Providing an organizational chart is an essential legislative direction. OPDC has yet to submit an organizational chart that meets legislative approval. OPDC continues to work on this with LFO and expects to have one by September legislative days.

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

Legislative Budget

OPDC is working to improve the ability to provide fiscals on bills. During the 2024 session, OPDC submitted many 'indeterminate' fiscals, and our goal is to reduce the number of such fiscals in the future. OPDC will work with LFO on pricing legislation that creates new crimes when the agency can't estimate potential arrests.

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

May 2024: Submit required reports.

April-June 2024: Finalize OPDC's current service level (CSL).

August 2024: Build 25-27 Policy Option Packages.

September 2024: Submit required reports.

December 2024: Submit required reports.

BUILD & REPAIR RELATIONSHIPS

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

Objective: Become a trusted partner on public defense matters.

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

OPDC is also engaging more stakeholders. The agency has expanded its monthly ‘office hours’ to address other areas within the agency, such as Case Support Services, accounts payable, government relations, and other topics of interest to our providers. We are also holding a working session for providers to give feedback on standards for core staff positions.

OPDC also hosts an open house in May for stakeholders to meet and learn about the new trial offices.

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

Timeline: Ongoing

ACCOUNTABLE COMPLAINT PROCESS

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

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

Status Update: The agency receives complaints about public defense providers and complaints about the agency itself.

OPDC has long had a complaint policy regarding attorneys, although the responses to these complaints vary and are poorly documented. Currently, agency staff has been assigned to update this policy, improve the consistency of its application, and better document issues associated with the complaints.

The agency has yet to respond consistently to complaints about the agency itself, and this has been a topic for the Subcommittee on Governance in its development of Commission bylaws. Currently, the agency assigns differing tasks to agency staff and the Commission, depending upon the status and nature of the complaint.

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

Timeline: Spring/Summer 2024: Develop complaint policy and procedures.

PREVIOUS REPORTS

Remediation Plan Outline:

Submitted August 21, 2023

Heard September 28, 2023

[276904 \(oregonlegislature.gov\)](https://oregonlegislature.gov/bills-introductory/default.aspx/276904)

Remediation Plan I:

Submitted October 13, 2024

Heard November 7, 2024

[277546 \(oregonlegislature.gov\)](https://oregonlegislature.gov/bills-introductory/default.aspx/277546)

Remediation Plan II:

Submitted January 16, 2024

Heard February 8, 2024

[280579 \(oregonlegislature.gov\)](https://oregonlegislature.gov/bills-introductory/default.aspx/280579)