

View results

Respondent

96

Anonymous

03:35

Time to complete

1. Full Name *

James Comstock

2. Organization/Entity Name *

Defense Investigators of Oregon

3. Email *

jamesbcomstock@gmail.com

4. Phone Number *

503 510 0559

5. Public Comments must be directly related to agenda items for this meeting. Please specify which agenda topic your comments will relate to below. *

Budget, OPDC New Key Performance Measures, Financial Case Management System (FCMS)

6. What type of public comment are you submitting? *

☒

Written

☐

Verbal - Virtually Via Zoom

☐

Verbal - In-Person

7. Written Public Comment

If you'd like to submit attachments, please send them to info@opdc.state.or.us in addition to filling out this form

December 3, 2025

To: Oregon Public Defense Commission

From: James Comstock
Defense Investigators of Oregon

Re: Public comment – Request for DOJ opinion regarding ORS 293.462

Over the past 6 years, Public Defense Providers who receive authorization and payment via the Pre Authorized Expense (PAE) system have been issued payment with greater and greater delay from the date of submission to the date when the money is deposited into the providers' account, or in the case of paper checks, the date on the check.

Over this period of time, assurances about improved payment times have continually been made by OPDC and have then fallen short, resulting in payment times over the last year that consistently approach and sometimes surpass 45 days from submission to payment.

The only apparent recourse for providers is to charge interest in accordance with ORS 293.462 when payment times surpass 45 days from submission to payment. The ability to charge interest is an important accountability tool which providers believe keeps OPDC payments from falling into the 50 and even 60-day range, as has happened in the past.

Providers have seen that when we do not speak up and hold OPDC accountable for the bare minimum payment time standard, payment times inevitably increase. This was such a problem that in April of 2021 providers discovered that the Finance and Budget Director of the agency was reporting payment processing times on the agency website and in Commission meetings that were false - apparently in an effort to give the impression that payment processing times were faster than they were.

OPDC acknowledged this at the time, stating: "I think it is reasonable for people to believe/have believed that the information on our website was a representation of the time from submission of bill to payment. It is not. We will be immediately taking that information off of the website, and the agency will be addressing the issue at the next PDSC meeting."

Over the last few years, providers have been given various interpretations of ORS 293.462 and its application. At times we have been told that only business days counted as part of the 45 days. At other times we have been told that the clock does not start until the first business day after submission (Monday after a Saturday submission, for example). Lately, providers have been told that the days stop counting when OPDC releases payment authorization to the Department of Administrative Services (DAS), who then processes and releases payment.

We believe that none of these interpretations are faithful to the statute.

In absence of any general counsel in OPDC who would be able to interpret the statute regarding business matters, we are formally requesting that OPDC obtain a legal opinion from DOJ attorneys as to the application of ORS 293.462.

It appears to providers that OPDC staff who are not attorneys have engaged in varied interpretations of statute - always reaching a conclusion supporting the Agency's position.

Specifically, we are asking for a legal opinion as to when the time starts counting - (We believe that according to ORS 293.462 the time starts on the date that an invoice is submitted to OPDC via the Nintex system) and when the time stops counting - (We believe that according to ORS 293.462 the time stops counting when a direct deposit arrives in the providers account, or in the case of paper checks, on the date that the check is issued by DAS)

Our understanding is that the statute is very plain and clear on this issue. We are frustrated that the historically varied OPDC interpretation of ORS 293.462 continues to cause unnecessary friction between OPDC staff and providers.

Lately, when confronted with this question, OPDC has blamed delays on the mail system, and the time that it takes for paper checks to reach providers. We believe that virtually NONE of the providers attempting to charge interest are paid by paper check.

8. Additional Notes

It comes across as if OPDC considers what happens after an invoice has been released to DAS as something out of their control and not subject to tracking of payment time in ORS 293.462. OPDC and DAS are both part of the same state government, now both are even seated in the same Executive Branch. OPDC's responsibility is to submit payment to DAS in time to be paid to providers in 45 days or less. We have no complaint about the manner in which DAS processes the payments after they leave OPDC. The time that DAS takes to process the payments is very brief and very very consistent.

To be clear - providers are not asking for interest based on when a paper check arrives in a provider's mailbox. We are asking for interest for days in excess of 45 days from the date of submission to when money is deposited in the provider's bank account by DAS, or in the case of paper checks, from the date on the check issued by DAS.

We believe that OPDC has a statutory obligation to submit invoices to DAS for payment with sufficient anticipation to allow DAS to deposit the money into providers' accounts or to issue a check within the 45 day window from the date in which the invoice is submitted to OPDC via the Nintex system, and that OPDC's obligation does not simply cease when the agency sends the payment information to DAS.

We regret the need to use ORS 293.462 as an accountability tool to keep OPDC from issuing payment to providers with even greater delay. In a financial world that is based on 30 calendar day payments, and in a state where literally no other state agency regularly issues payments over 30 calendar days after invoice submission, we hope for time when issues regarding interest for payments over 45 days is moot - because providers are paid in 30 days or less.

We are also concerned that OPDC required providers to request interest payments when payment times surpass 45 days, rather than simply paying what the agency owes the provider as a matter of course. The process that a provider must use to request interest payments has historically not been clearly documented or well publicized, causing confusion and strain in the relationship between providers and the agency. There is a general feeling among providers that the agency discourages providers from seeking interest payments to which they are entitled.

We understand that OPDC may be understaffed in the accounts payable department. We understand that OPDC believes that a new Financial Case Management System (FCMS) will fix this problem. These are the same reasons OPDC has been responding to our concerns with since 2019. Despite more than doubling AP staff and the reclassification upward of AP management, payment times have continued to increase. At least three terminated attempts at a FCMS system have made it difficult for providers to accept this as a cause of the problem and a proposed solution.

After 6 years of hearing reasons, proposed solutions, and assurances from OPDC, providers are feeling that payment of invoices in under 30 days is simply not a priority for the agency, and the ability to hold OPDC accountable by charging interest after a faithful reckoning of 45 days is our last and only recourse to keep things from getting worse.

We again ask OPDC to obtain a legal opinion from DOJ on the application of ORS 293.462 in order to settle this pernicious point of contention between OPDC staff and providers. More importantly, we ask OPDC to pay provider invoices in 30 calendar days or less.

End of public comment.

View results

Respondent

97

Anonymous

22:17

Time to complete

1. Full Name *

Kirsten Snowden

2. Organization/Entity Name *

Multnomah County District Attorney's Office

3. Email *

kirsten.snowden@mcda.us

4. Phone Number *

503-433-2387

5. Public Comments must be directly related to agenda items for this meeting. Please specify which agenda topic your comments will relate to below. *

Unrepresented persons in Multnomah County

6. What type of public comment are you submitting? *

☒

Written

☐

Verbal - Virtually Via Zoom

☐

Verbal - In-Person

7. Written Public Comment

If you'd like to submit attachments, please send them to info@opdc.state.or.us in addition to filling out this form

Thank you, Chair Nash and Commissioners. I appreciate your work on this crisis, and I want to acknowledge that OPDC deserves real credit. Other counties show what is possible when performance is required. Klamath reduced its unrepresented population from about 60 to 17. Union and Wallowa dropped from 55 to just 4. Marion cut its crisis numbers by 85 percent. Early-resolution dockets in those counties also removed hundreds of otherwise unrepresented cases.

Unfortunately, the story in Multnomah County is very different. A single pilot docket here resolved just 19 cases and was never expanded. And while other counties have reduced their unrepresented populations by nearly 30 percent, Multnomah has barely moved. The 13 percent decline cited in your October report is entirely misdemeanors; unrepresented felonies have increased by 25 percent this past year. Multnomah remains flat because OPDC is not enforcing accountability for our nonprofit defenders.

Your report shows more than 1,200 unrepresented individuals in Multnomah—1,137 out-of-custody and 74 in custody—and there are more than 1,100 additional Multnomah defendants with active warrants who also lack counsel. Many are repeat offenders who are not getting lawyers and are reoffending while waiting.

Meanwhile, providers took 1,270 cases in September and were at just 88.5 percent MAC, meaning 11.5 percent of available capacity went unused during a constitutional emergency. One major nonprofit is operating at only 78 percent. OPDC is also highlighting the Exceed Caseload Program, but that involves only three attorneys and cannot meaningfully impact Multnomah's numbers.

Multnomah is receiving more resources. Your contracts now fund 87.4 FTE, plus 15 new FTE recently added, for a total of 102 full-time adult criminal public defenders, not including juvenile attorneys. For comparison, our office has about 80 deputy district attorneys prosecuting these same cases. But adding FTE is meaningless if OPDC does not require providers to actually use that capacity. We are pouring resources into a structure with no oversight.

OPDC has both the authority and the obligation to insist on full utilization, accurate caseload reporting, and enforcement of contract requirements. This is not a funding problem, it is a contract-enforcement problem. You already have the tools: performance metrics, corrective action, and financial consequences for failure.

You've shown in other counties that strong oversight can dramatically reduce unrepresented numbers. Multnomah needs that same level of focus. I'm asking the Commission to fully use the tools already available, contract provisions, performance standards, and transparent reporting, to bring Multnomah back into constitutional compliance.

Thank you for your time and for your continued work on this critical issue.

8. Additional Notes

View results

Respondent

99

Anonymous

68:53

Time to complete

1. Full Name *

Chris Hinkel

2. Organization/Entity Name *

Oregon CASA Network

3. Email *

chinkel@oregoncasanetwork.org

4. Phone Number *

5419369963

5. Public Comments must be directly related to agenda items for this meeting. Please specify which agenda topic your comments will relate to below. *

Budget

6. What type of public comment are you submitting? *

☒

Written

☐

Verbal - Virtually Via Zoom

☐

Verbal - In-Person

7. Written Public Comment

If you'd like to submit attachments, please send them to info@opdc.state.or.us in addition to filling out this form

Honorable Chair Nash
Honorable Members of the Commission
From: Oregon CASA Network
Date: 9/15/2025

Dear Chair Nash and Members of the Commission,

On behalf of its 19 local Court Appointed Special Advocate ("CASA") Program members, Oregon CASA Network writes with great concern and support for attorneys of children in foster care in response to the Commission's letter on agency budget reductions options to the Joint Committee on Ways and Means dated November 3, 2025.

While understanding and appreciating the constitutional representation concerns outlined in OPDC's reduction options letter, the reduction or elimination of attorneys for children in dependency cases would have a drastic and negative impact on children in substitute care, and more particularly on children from historically marginalized communities that are over-represented in the child welfare system.

As the Commission is aware, CASAs advocate for a child's best interests before the court for Oregon's children in dependency cases. CASAs often consider a child's wishes as part of their best interest recommendations to the court, but a child's attorney is duty-bound to advocate for those wishes. Each party provides a critical perspective as the court determines the course of a child's future.

Additionally, as local CASA program capacity is only sufficient to provide a volunteer advocate for approximately 56 percent of children in care across Oregon, the elimination of attorneys for children would result in nearly half of Oregon's foster children having no voice to speak to the court on their behalf.

Oregon's CASA programs are proud to stand in court alongside attorneys for children, and we would discourage any reductions that would prevent a child from having both a CASA and an attorney to advocate on their behalf.

Sincerely,

Chris Hinkel
Staff Attorney, Oregon CASA Network

8. Additional Notes