



**PUBLIC DEFENDER SERVICES
OF LANE COUNTY, INC.**

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5/18/26

To: Rob Harris, Chair
Susan Mandiberg, Vice Chair
Oregon Public Defense Commission

Re: Audit Committee Charter Revision and Associated Bylaw Amendments

Dear Members of the Commission,

I am writing to formally express my deep concerns regarding the proposed revisions to the Audit Committee Charter scheduled for discussion at the upcoming meeting. While the stated goal of improving "internal collaboration" is commendable, the structural changes proposed would dismantle the independent oversight necessary for this Agency and further erode trust and relationships that the Agency has with the Legislature, its providers, and the community.

I do support the proposed transition from an Audit Committee to an "Internal Audit Advisory Committee" in general. Being subject to public meeting laws has chilled discussion in committee meetings and has softened comments made to the Agency about its operations. Having learned what an internal audit function is over the last four years, I am very aware that the committee's purpose can be misunderstood, interfering with its work. I likewise support refining the purposes of the Internal Audit function and establishing those in the Charter.

I do not support the proposal to restructure committee membership to be comprised nearly entirely of the senior management of the Agency. By removing external members and filling the committee with the very directors whose functions are subject to audit (IT, HR, Procurement, etc.), the Agency creates a profound conflict of interest. It is essential that the Chief Audit Executive remain independent of management. Replacing external members of the Audit Committee with the Executive Director, the Deputy Director, and other department directors creates an environment in which management is allowed to direct the Audit Executive's investigations, allowing management to oversee its own evaluation, to prevent the Agency from dispassionately assessing the risks that arise out of their own decisions, and to steer the Chief Audit Executive away from sensitive findings before they become public. Agency management already has a reputation for not listening to providers and the criminal defense community, and the proposed composition of this committee reinforces the belief that management acts as an echo chamber for its own ideas and has goals and beliefs that do not align with the purposes of Public Defense.

The proposed changes to the Audit Charter remove the independence of the Chief Audit Executive and establishes a “management-led” model of auditing. Eliminating the “independent” part of “independent audit,” the changes leave the Commission blind to Agency risks that staff and management might be incentivized to downplay.

The current charter was designed to protect the agency, the taxpayers, and the public by ensuring that internal problems are identified by committee members that are not beholden to agency leadership for their paychecks or professional advancement. OPDC appears to blame the “culture of auditing” as the problem of this structure rather than the quality of its operations or decision making. Internal auditing is designed to be both a partner to management and an independent check on its actions. Removing external members and replacing them with Agency managers disincentivizes staff and management from critically assessing its decision making.

I acknowledge that this proposed change directly affects me as a current, external member of the Audit Committee. I add that I would be happy to be removed from this time consuming and emotionally taxing volunteer position in favor of a person outside of the Agency with prior Public Defense experience if it meant that the committee could continue to voice critical opinions and suggestions about Agency practices and assess how the Agency is viewed externally. Potential members could include the Federal Defender for the District of Oregon, the President of the Oregon Criminal Defense Lawyers Association, a formerly represented person, a private defense attorney who does not take Public Defense cases, a retired Public Defender or judge, or a criminal law or procedure professor from one of the law schools. The Audit Committee has, in the past, had a balance between practitioners, management, and external members with audit experience at the corporate, state, or municipal level. These external members were able to set the Audit Plan to examine management decisions or risks that they had either not seen or ignored.

I urge the Commission to reject the proposed charter in its current form and instead maintain a committee structure that prioritizes independence, transparency, and rigorous oversight over management convenience.

I look forward to discussing this further at the upcoming meeting.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Reid Kajikawa', with a stylized flourish extending to the right.

Reid Kajikawa (he/him)
Assistant Director
Public Defender Services of Lane County

****Written Comment received past the signup deadline but within 2 business days of the April Commission meeting - included in the May Comments.**

Chair Harris and Members of the Commission,

My name is Frankie Hupy, and I am the Mental Health and Training Lead at the Public Defender of Marion County. I am My AQ's are Attorney 4 and Civil Commitment 2, but I didn't get there on my own. It took practice, training, and mentors – things that used to be funded for all levels of attorneys. Unfortunately over the last few years, I have seen the Commission turn away from these ideals in favor of “solving” the unrepresented crisis on paper.

In reviewing the Tier 1 and Tier 2 POPs, it appears that the Commission has decided to continue on this decline. The Tier 1 POPs include an unnamed amount for FCMS, a project that has been worked on in some form since I was licensed in 2011, and the Exceed Caseload Program, which dedicates \$2,500,000 to encourage people to take up to 115% of MAC. It's not until we get to the bottom of the list of Tier 2 POPs that we even get to “Investigating ways to make SPPE part of the public defense pipeline...”

Multiple studies have shown that MAC is an inappropriate way to weigh caseloads. Especially with the shift of it being a maximum to it being a floor – especially true with the Exceed Caseload Program being contemplated – it truly is no different than the pay-per-case model that the 6th Amendment Center found unconstitutional in 2018. I was interviewed for that study, and the look of shock on the faces of the investigators when I explained to them my caseload which was both crushing and expected of me will forever live in my mind.

But even if MAC were, *arguendo*, appropriate, the Commission's priorities are backwards. 15% over MAC is an additional 45 weighted units. Even if someone were able to bill 2080 hours in a year, that reduces the number of hours per weighted unit from 6.9 hours per unit to 6 hours per unit. While that may not seem like a lot, when you are in a county like Marion, that's one less trip out to the jail/Annex, which means one less client contact – the meat and potatoes of public defense. But in reality, if you are taking two weeks of vacation a year and not working through lunch and breaks, 1538 hours per year is more realistic, reducing the hours per unit under MAC to 5.1, and the hours per unit under 115% or MAC to 4.5 hours per case. That's not even enough to review the discovery, let alone contact your client, and that overloading is what has led so many public defenders – myself included for a time – to leave the profession entirely.

Instead of spending \$2,500,000 on encouraging people to shirk their ethical responsibilities to their clients, the Commission could fund an SPPE candidate in almost every non-profit public defense office in the state. While that would not immediately cure the crisis, it would strengthen public defense across the state for the long-term. My office has

previously had a continuous stream of SPPE candidates, and they have been some of the most curious, brilliant, and willing to learn of any new attorneys I have worked with. If we can add 10 SPPE candidates to the public defense community per year, in three years, those 10 individuals could sponsor another 10 SPPE candidates. That slow exponential growth would more assuredly end *and prevent* the public defense crisis in the future.

The issues leading to the public defense crisis are not going away. It's not simply there are more defendants than attorneys can handle. Discovery volume is only going to continue grow as technology continues to develop. Each year, the legislature creates new crimes or increases the severity of crimes already on the books or completely overhauls an entire area of law where people are entitled to court appointed counsel like HB 2005 did to civil commitment in 2025. Rather than sticking our finger in the dyke, which the Exceed Caseload Program would do, we could get our hands dirty and train new attorneys to actually try and keep up with the expanding demand.

I urge the Commission to reconsider its priorities of getting more attorneys into the profession, rather than just encouraging those already in to push their limits. This will ultimately require the Commission be honest to the Legislature about the true cost of public defense. For so many years the Commission has denied a workload model because "that's not what we are funded for." We aren't funded for it because that's not what is asked of the Legislature. The Commission needs to ask for what it needs; not just what it thinks the Legislature will give us. It's not until the true cost is shown that the Legislature will believe that it is what is needed.

Sincerely,

Francis M. Hupy