

MARION COUNTY ASSOCIATION OF DEFENDERS

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Chair Harris
Vice Chair Mandiberg
Members of the Commission
Executive Director Sanchagrin

I am writing you and will be testifying at the April 15, 2026, meeting because I want to make sure the commission and top OPDC leadership know how precarious Marion County is. I know you have constraints placed on you by the Oregon Department of Justice and have received, in my personal view, horrendous legal advice from them.

If you recall, 4 years ago, in 2022, the Marion County Association of Defenders (MCAD) was asked by the Public Defender of Marion County (PDMC) to temporarily cover all the Ballot Measure 11 (BM11) cases in Marion County because PDMC could not do so right then. Until then MCAD was, at the instruction of the Office of Public Defense Services (OPDS), the predecessor to OPDC, only taking 50% of the BM11 cases even though, otherwise, MCAD was handling almost 70% of the cases in Marion County. We agreed to cover all the BM11 cases but by the fall we were overloaded especially when PDMC announced in September it could not take any appointments that month. It was at this point Marion County really started falling apart and it did not recover until early this year.

Meanwhile, OPDS continued to pay PDMC for all the cases it was not taking and continued to refuse to give MCAD any more money to reflect the cases it was

taking that PDMC was contracted to take. Towards the end of that contracting cycle one judge asked the then Executive Director of OPDS if it was going to take back the money it had paid PDMC for cases PDMC had not taken and was told absolutely not.

Throughout the 2023-2025 contracting cycle OPDS and OPDC continued to pay PDMC for cases it refused to take, paid PDMC for supervision and training, and paid PDMC extended vacancy funding (funding for vacancies lasting over 60 days), funding OPDS said was only for rural counties. Two years ago MCAD requested additional funds to add capacity but the agency refused even though it was paying PDMC far more per month for extended vacancies than the request from MCAD would have cost.

Beginning October 1, 2025, MCAD started taking all the appointments in Marion County because PDMC refused to sign a contract. We quietly searched for additional attorneys and we were able to add a few but by the time we were ready to add over three full time equivalent positions OPDC and PDMC signed a contract and OPDC refused to give MCAD funding for the new attorneys it had asked MCAD to find.

Since October 1, MCAD's MAC utilization has remained close to 100%. PDMC is still way below its contracted MAC utilization and based on its January and February appointments is not catching up but falling further behind. Its reported utilization for January appointments was 86% and was 64% for February appointments.

All through this OPDS and OPDC have continued to pay PDMC more per attorney than it pays MCAD. The increased amount is for supervision and training, funding OPDC will not allow MCAD receive.

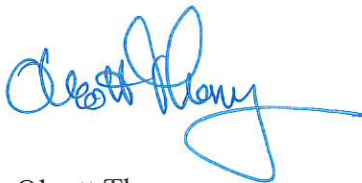
What is everyone at the agency missing here? How is it fair and equitable to pay one entity far more than another entity for doing less work while the other entity does the work the first entity was to do without any additional compensation? That has been the story of the agency for at least the past four years.

This cannot continue. Again, I know DOJ has placed constraints but all those constraints are doing is delaying the inevitable. Any action taken by the agency that PDMC does not like it will result in a claim of retaliation. Right now the agency is throwing money into an ever expanding PDMC hole. It is paying PDMC more for less work than it is paying MCAD.

To the extent that OPDC does not have the ability to cut PDMC contract payments because it is ethically accepting all the appointments it can that will apply to all agency contracts, including MCAD's. I urge the commission and the agency leadership to consider what will happen in Marion County if MCAD decides it has taken all the cases it ethically can and cannot take any more until its percentage and PDMC's are roughly equal. Why should MCAD continue to accept PDMC being paid more per attorney for doing far less work?

We have 2.5 FTE already approved by the Board to join MCAD and 2 to 3 more FTE who just need to be interviewed and approved to join MCAD. That 4.5 to 5.5 FTE at 90% is equal to 8 or more PDMC attorneys. It will cost less overall for OPDC to fund MCAD and certainly less per attorney while receiving more work per attorney. Yes, there will be some additional costs for the very likely claim that OPDC is retaliating but those costs will have to be expended at some point unless OPDC wants to continue forever to pour money into the PDMC hole.

Again, I am cognizant of what DOJ is likely telling you but you are only delaying the inevitable and bleeding money by not taking action now and likely creating a bigger mess in Marion County. You need to provide funding so MCAD can add attorneys so problems in Marion County do not return. That is the only way to prevent a crises in Marion County from returning.



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