

From: [Ginger Fitch](#)
To: [OPDS info](#)
Cc: [Jessica Kampfe](#)
Subject: Public Comment for August 2024
Date: Monday, August 19, 2024 4:12:48 PM

Some people who received this message don't often get email from gingfitch@gmail.com. [Learn why this is important](#)

August 2024

Dear Director Jessica Kampfe and Commissioners:

I am Witness #3. My name is Ginger Fitch. My bar number is 982260,

It has been several years since I provided public comment to this Commission. Investigator Jill Goldsmith found that the General Counsel of the Office of Public Defense retaliated against me for my public comment to the Commission. The reason I have been silent though is because for the past several years I have been working at a firm that contracts with the Office, employing a dozen public defenders.

And what I knew the last time I came before you, and what you know now, is that retaliation does occur. Such retaliation harms. It harms the justice system. Public defense. The people who are represented through court-appointments. The people who are awaiting court-appointments.

Jill Goldsmith also found in her retaliation report that a male attorney on the juvenile appellate panel at the same time I was on the panel routinely received double the rate provided in the panel agreement. We know it was a male—even though the report does not say so—because I was the only female attorney serving on the panel during that time.

You know now that gender bias is impacting public defense. Perhaps you have not been in a juvenile court lately. The majority of public defenders are women.

The Office has responded to news organizations that “OPDC has come a long way in adopting policies to increase transparency and accountability for attorney compensation” and instituted “consistent and transparent compensation.” Part of my experience described in Jill Goldsmith’s report involves the Office’s response to my public records request. In my experience, and as documented by Jill Goldsmith, the Office has difficulty following its public records obligation. To this day, the Office has not fulfilled its obligation for requests made in February around Jill Goldsmith’s reports. That’s not transparency. That’s not coming a long way.

I am proud of the women who continue to do the work of public defense despite retaliation and pay inequity. I am proud of the women who walked away because they knew they deserved better.

Public defense deserves better. The Office of Public Defense and this Commission must do better.

Doing better is not making a lackluster statement to the press that “retaliation is a serious matter at OPDC and any employee found to have engaged in such behavior *may* face disciplinary action.” Doing better means taking responsibility and taking action.

Sincerely,

Ginger Fitch

Witness #3

Attorney at Law

gingfitch@gmail.com

503-954-9829

OPDC Commission Meeting 8/21/24
Public Comment

I have been a member of the Oregon public defense community for over 25 years. As the Senior PCRCP Case Manager Administrator, I recruit and provide training, oversight, and technical support to all PCRCP Case Managers as well as some case managers who are accessed through PAE payment system. I believe case managers integration in defense teams has led to juvenile attorney retention along with improved outcomes for parents and children involved in Oregon's child welfare and juvenile justice systems.

I am providing public comment today regarding my concerns about the future of the Parent Child Representation Program and specifically the role of PCRCP Case Managers and how they are trained, supported and paid. I fear the agency may be moving in a direction that undermines critical components that have made this program successful in retaining providers and achieving good outcomes for the clients we serve.

The PCRCP program currently has 22 independently contracted PCRCP Case Managers. They have a wealth of experience including some who successfully navigated the juvenile and criminal court systems themselves, others with degrees in psychology, human development, and criminal justice, ones with master's degrees in social work and conflict resolution, some who are foster parents or were youth in the system, some who are subject matter experts in domestic violence and sexual assault, and others with peer mentor experience. We have built a work group with diversified backgrounds and each of them are highly committed to this work.

If OPDC does not continue to invest in **case manager training and technical support** and offer provider **contracts**, rather than payment through PAE, I fear this group will disintegrate along with the outcomes we see for clients who have been represented by these extremely qualified defense teams. Along with the need for OPDC to invest in training and technical support, **oversight** also must not be overlooked. Oversight allows for the collection of data, procurement of success stories, maintains the integrity of the case manager role, and keeps consistent practice and the adoption of best practice standards.

For the past 10 years OPDC has offered contracts to PCRCP Case Managers. All PCRCP Case Managers submit a monthly invoice and are paid hourly within those contracts. This practice must continue if we want to recruit and retain quality providers. It is common knowledge that **payment through the PAE system does not work** and I fear that many of our case manager providers would leave this work if the payment structure shifts from contracts to the PAE billing system.

The PCRCP's success is recognized by attorneys, staff, and other stakeholders in the juvenile court and juvenile justice systems. I am hopeful the agency will also show this recognition by continuing to invest in the infrastructure and program support that is needed to successfully retain qualified case managers as they are integral to the success of defense team representation in Oregon.

Thank you,

Dana Brandon, MSW
Senior PCRCP Case Manager Administrator (independent contractor)
brandonsocialwork@gmail.com

From: [Mary Goody](#)
To: [OPDS info](#)
Subject: Slow Payment Time for Contractors
Date: Monday, August 19, 2024 4:05:20 PM

Some people who received this message don't often get email from marygoody65@gmail.com. [Learn why this is important](#)

I have been an investigator since 1984. I have worked as an employee for several public defender systems, and since October of 1990 I have been an independent contractor. I have worked primarily as a mitigation specialist since that time. I worked for OPDS, now OPDC in the mid-1980's and in 2007 began working primarily for OPDS until 2023 when I became semi-retired.

Having worked not only as a mitigation specialist for the Missouri State Public Defender in my career, I was also the assistant to the Director of three capital litigation units we organized when our own system was in trouble financially. Capital cases were eating up much of budget and it was difficult to supply clients on death row with lawyers and investigators in a timely manner. The answer in that particular case - to keep a long story very short - was to form three separate capital units and make most of the contract workers employees. This gave the agency the opportunity to at least know the full amount of salaries that had to be paid in a calendar year. Of course, people got paid every month.

OPDC chooses to use contract employees. Only very recently have they also chosen to finally pay the investigators a respectable sum as an hourly rate. This is greatly appreciated. What is not appreciated is the lengthy time for payment of invoices. One must work for a month and then bill OPDC. Then, payment may or may not arrive around the 18th of the month - an entire month later. So work in April, for example, bill April 30 and get paid June 18th. This is unprofessional and unacceptable. Mortgages, quarterly tax payments, car payments, credit card payment for expenses fronted by the contractor, health insurance, groceries, etc. - all these payments are expected within 30 days, and if not paid, then interest is charged. My guess is that every person on the Commission gets paid within 30 days and wouldn't like it very much if this happened to them.

Do the right thing, follow the laws that govern such payments in Oregon and pay the contractors within 30 days! Please do the right thing!

Mary Goody Mitigation Specialists
26605 NE 96th Court
Battle Ground, WA 98604
(307) 690-5563
marygoody65@gmail.com

----- Forwarded message -----

From: **James Comstock** <jamesbcomstock@gmail.com>

Date: Fri, Aug 16, 2024 at 4:54 PM

Subject: OPDC Payment times

To: Lisa Taylor <Lisa.Taylor@opds.state.or.us>

Hi Lisa -

Here is more in depth info on the issues that I mentioned at the Wednesday meeting.

My colleagues and I have been concerned that the agency's reporting of payment times do not reflect the reality that providers are experiencing.

1 - Nintex times:

We have discovered that the time stamp in the Nintex system is consistently posted in the automated Nintex response as a time 7 hours later than the actual time that it is submitted.

As an example, on May 13 2024 I submitted an invoice for PAE# 429249 at 5:41 p.m.

The Nintex response that I received said the following:

"Submission Date/Timestamp: 2024-05-14T00:41:25.950Z"

This is more than 7 hours later than when it was actually submitted, which pushes the tracked submitted time to the next day, effectively giving the agency an extra day in the way that they reckon the payment time.

I have checked back as far as one year ago, and this error has been consistent the whole time. This is not a new development - but we have only recently figured out that it was happening.

2 - Payment time vs submission for payment time.

It appears to us that the agency is reporting payment times as the time between the (7 hours off) submission to Nintex time, and the date in which OPDC sends notice that the invoice has been processed and transferred to DAS to issue payment. Some emails to providers have stated that the agency starts counting days (especially for purposes of 45 day interest) from the moment that OPDC staff touches the invoice - not when it is sent. This can be days after submission and is not in line with statute.

OPDC seems to feel that they are only responsible to reckon the time based on the time period between submission to the agency (or when staff first touches it) and the time when the agency sends the invoice

to DAS for payment.

DAS takes consistently 2 business days to issue direct deposit. These two or more days must be considered when counting payment time.

ORS 293.462 states:

(4)

Overdue claims shall be those that have not been paid within 45 days from the latest of the following dates: The date of the receipt of the invoice, the date of the initial billing statement if no invoice is received, or the date the claim is made certain by agreement of the parties or by operation of law. However, overdue account charges shall not accrue on any purchases made by any state agency during time of civil emergency or in the event of a natural disaster which prevents the timely payment of accounts. In such instances accounts shall be paid in as timely a manner as possible.

(5)

Where claims have been paid, the date of the check or warrant in payment of the claims shall be used to determine if the claim has been paid in a timely manner. It shall be rebuttably presumed that the check or warrant was correctly dated.

Based on this, per the ORS time for payment is reckoned from the true date of invoice submission, to the issuance of the check or warrant (the automatic payment being the equivalent of the issuance of the check or warrant)

We firmly believe that based on these issues, the OPDS processing times reported are deficient by a minimum of 3 days. This would account for the consistent confusion on the part of providers when the agency reports payment times that seem materially shorter than our experience.

This is problematic on several fronts:

First of all, the continued discrepancy between reported payment times and payment times experienced by providers compromises trust between partners in the agency.

Second, providers make business decisions based on the payment times reported by the agency. When those are longer than anticipated, even by a few days, it has significant impacts on providers financially resulting in late fees being charged when providers can't pay their own bills.

Third, providers are entitled to interest for payments issued more than 45 days. When the agency does not pay interest because agency calculations report payment under 45 days when the payment actually arrives more than 45 days from submission, providers are deprived from compensation required by ORS 293.462. This could result in significant effort and financial liability for the agency to rectify.

I am requesting the following:

Please correct the time stamp error in Nintex, and until it is corrected please adjust reported payment times accordingly. Please calculate the payment time based on when the invoice is submitted - not on when staff first touches the invoice.

Please correct reported payment times, adding in the two days between submission to DAS and payment. Please note that two days is the minimum - if an invoice is processed by OPDC on a Thursday or Friday, up to 4 additional days may be added to payment times.

We ask you to remedy this at once, and to please address this at the upcoming Commission meeting.

As always, it pains all of us to have to address this at all. Our greatest desire is that OPDC consistently pay providers in 30 days or less, from submission to receipt of money in the provider's bank account.

James Comstock
DPSST #52647

Insight Legal Investigation
503 765 8050
www.insightli.com

30 IN 30

THIRTY DAYS TO FAIR TREATMENT

For more than 5 years, Providers have engaged with OPDC, asking the agency to pay us within 30 days – something that the agency did prior to 2019 for decades without issue.

We have heard every reason possible for the inability of the agency to pay its bills in under 30 days.

We have heard every plan for improvement, including more than doubling staff, and in June of 2024 what was presented as a temporary change to policy. None of this has resulted in sustained material improvement in payment times.

Our pleas have been met with ambivalence, or hollow assurances that never come to fruition. At the last Commission meeting in July, the Agency did not even address the fact that the emergency June policy did not seem to be making material improvement, despite pleas for help in public comment.

We understand that the Commission and the Agency may have had what they felt were more important things to address at the July meeting – but being able to pay our bills on time, by being paid by OPDC on time is frankly a matter for providers of being able to pay rent and buy food – especially for the newer providers that OPDC claims to be desperately trying to recruit.

We want to have the Agency as a partner and collaborator. The Agency is forcing us into the position of an adversary. This is not our preference.

We now make the following declaration:

We are giving OPDC 30 days from August 21, 2024 to pay providers in 30 days or less – from time of submission of the invoice until the money is deposited in the provider's account.

If OPDC cannot meet this deadline, we are committed to taking this matter to Governor Kotek, Legislative leadership, the chairs of Ways and Means, the Public Safety Sub Committee, and the Legislative Fiscal Office.

We will raise this issue at the September eBoard meetings in the context of the Agency's budget request

No other agency in Oregon State Government that we can find has this problem. The unprecedented nature of this problem in Oregon State Government outside of OPDC is deeply concerning. Again, no other agency seems to have this problem – let alone having the problem for more than 5 years after doubling staff.

For this reason, we ask the Commission and Agency to take radical action to fix this pernicious problem at once, so that the Agency can meet and maintain invoice processing in 30 days or less, within 30 days of August 21st, using an honest and transparent reckoning of time measurement from submission to payment.

We candidly caution the Agency against allowing any retribution against providers advocating for on time payment.

Submitted by James Comstock on behalf of Defense Investigators of Oregon – Proudly affiliated with the Industrial Workers of the World.