



TINA KOTEK
GOVERNOR

May 23, 2024

Oregon Public Defense Commission
1175 Court Street NE
Salem, OR 97301

Dear Chair Nash and Members of the Commission:

As you know the Oregon Public Defense Commission (OPDC) will transfer from the judicial to the executive branch on January 1, 2025. I am writing to express my concerns about the current availability of public defense services and OPDC's ability to transition to the executive branch. It is imperative that Oregon have a public defense agency that fulfills its duty to meet our state's constitutional responsibility of providing public defense to persons charged with crimes who cannot afford an attorney. It is my expectation that OPDC will be prepared to effectively serve Oregonians from its first day in the executive branch.

Chief among my concerns is that OPDC is unable to ensure that thousands of Oregonians have access to public defense attorneys. This is unacceptable. We cannot allow the current state of affairs to be normalized. It is corrosive to our system of justice and fundamental constitutional values. The current situation serves neither victims of crime nor persons charged with an offense. While this crisis is many years in the making, it is up to OPDC to identify solutions and work towards resolving this crisis. My expectation is that addressing this crisis is a top priority for the Commission. I am requesting that you provide me by August 1, 2024, your plan to eliminate Oregon's unrepresented client crisis in both the near and long term, and that plan should be based in the realities of the current fiscal and legislative environment.

Even before the passage of Senate Bill 337, OPDC had many tasks that it needed to accomplish. I am concerned that OPDC does not have sufficient capacity to transition successfully to the executive branch while fulfilling its other obligations. The Governor's Office and the Department of Administrative Services have previously recommended to OPDC that it bring on an outside consultant to add capacity to support the transition. While OPDC has brought on a consultant, I do not believe this resource has provided OPDC the necessary support to improve the situation.

One of the unique aspects of Oregon's public defense system is its heavy reliance on contracting with defense attorneys to act as counsel for indigent defendants. One of the areas of significant risk during the transition is procurement, particularly making sure OPDC's system of procurement is in alignment with the executive branch. It is my understanding that OPDC's

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process to update how it does procurement is delayed. I strongly recommend that OPDC utilize outside resources if needed to ensure that its procurement process is ready by January 1, 2025.

As the executive branch builds towards the 2025-2027 Governor's Recommended Budget, I want to make sure that OPDC is integrated into this effort, while recognizing that OPDC will still be part of the judicial branch when the budget is released. It is important that OPDC work closely with the Governor's Office and the Chief Financial Officer as the Commission develops its budget.

Executive branch agencies are currently developing their needs for the agency request budget (ARB), and in order for OPDC to be successful, I believe it should do the following:

- Identify clearly its continuing service level (CSL) budget, accounting for the number of investments that the legislature has made to public defense over the past several legislative sessions.
- Exclude from CSL any positions that have not been authorized by the legislature.
- Work closely with the Chief Financial Officer and the Legislative Fiscal Office to ensure that OPDC is in alignment with executive and legislative branch expectations.

As we get closer to OPDC's transfer to the executive branch, please know that my office and I are available to provide you the assistance and support that you need.

Thank you for your work and partnership.

Sincerely,

A handwritten signature in black ink, appearing to read "Tina Kotek". The signature is fluid and cursive, with the first name "Tina" and last name "Kotek" clearly distinguishable.

Governor Tina Kotek