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*Auditing for a Better Oregon*

February 9, 2005

Peter Ozanne, Executive Director  
Office of Public Defense Services  
1320 Capitol St. NE, Suite 200  
Salem, OR 97303-6469

Dear Mr. Ozanne:

We recently completed a survey focusing on public defense services in Oregon. This letter discusses management risks we identified that relate to the duties and responsibilities of the Office of Public Defense Services (OPDS). We have reported only those risks we rated above medium. We have included brief background information on each risk and potential mitigating actions OPDS could take to address each risk.

This letter is intended to be informational in nature and not an all-inclusive or formal presentation of audit findings or recommendations.

We appreciate the time and effort you and your staff provided during the course of our survey. Should you have any questions regarding this work, please feel free to contact me at (503) 986-2255.

Sincerely,  
OREGON AUDITS DIVISION

William Garber, MPA, CGFM  
Audit Manager

WG:bk

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Management Letter No. 404-2005-02-01

**1. OPDS may not ensure that contract and private bar public defense attorneys provide adequate representation in juvenile cases.**

Background:

Juvenile cases comprise about one fourth of the state's public defense work. These cases include juvenile dependency and termination of parental rights, and juvenile delinquency. There is general agreement within the legal community in Oregon that juvenile court representation in these cases is often inadequate. OPDS management pointed out further that adequate standards for juvenile defense work are lacking.

According to its draft strategic plan for 2005-07, the Public Defense Services Commission has made the improvement of juvenile public defense one of its highest priorities. For example, OPDS and the Oregon Judicial Department have formed a work group to develop a juvenile law training curriculum. A juvenile law training academy and training requirements in attorney contracts may follow. In addition, OPDS' General Counsel is participating in efforts to revise standards for practicing juvenile law in Oregon.

Potential Mitigating Actions:

- Continue efforts to better define juvenile law standards in Oregon and provide necessary training to attorneys.
- Establish procedures for regularly monitoring the work of these attorneys and take action when quality falls below standards.

**2. OPDS may not ensure that contract and private bar public defense attorneys provide adequate representation in post-conviction relief cases.**

Background:

Post-conviction relief denotes cases in which defendants challenge certain matters from previous legal proceedings, such as the adequacy of their trial and appellate representation. Like juvenile representation, this is an area in which clients are viewed as often receiving poor representation.

Post-conviction relief cases with merit require thorough investigation, preparation, and litigation. However, according to OPDS management, there is a shortage of qualified attorneys willing to handle this work for the pay the state offers. OPDS management also noted that the current system does not afford sufficient incentives or management oversight for lawyers to rigorously screen post-conviction relief cases and focus their efforts on cases with merit or likelihood of success.

After conferring with its Contractor's Advisory Group, public defense attorneys, prosecutors, and judges regarding the most effective ways to deliver public defense services in post-conviction cases, OPDS concluded that a clear consensus favored establishing a separate state office within OPDS. Accordingly, OPDS would like to hire four in-house attorneys to handle 40-60 percent of the post conviction caseload at a cost of about \$765,000. The Executive Director believes that close supervision and management of these attorneys can produce focused quality post-conviction representation.

Potential Mitigating Actions:

- Develop standards and best practices that define adequate representation in post-conviction relief cases.
- Continue efforts to ensure enough qualified attorneys are available to handle post-conviction relief cases, such as the proposal to hire in-house post-conviction counsel.
- Establish procedures for regularly monitoring the work of attorneys who handle post-conviction cases, and take action when quality falls below standards.
- Determine the most efficient and effective mix of in-house and outsourced post conviction representation.