



May 13, 2025

Chair Prozanski and members of the committee:

I appear before you on behalf of the non-legislative members of the Oregon Public Defense Commission. The Commission opposes the language in HB2614 related to the tenure of the Executive Director and Commission. The Commission is not taking a position on the remainder of the bill.

Public defense delivery systems and public defense lawyers must be independent of political influence. This includes having an oversight Commission that is independent of the Executive and Judicial branches whose members cannot be removed absent a showing of inefficiency, neglect of duty, or malfeasance and where the *Commission* removes the Executive Director and only upon a showing of good cause.

In 2023, the legislature moved OPDC from the Judicial branch to the Executive branch and temporarily removed some of its independence until July 1, 2027, when it is returned to the Commission. HB 2614 seek to make those temporary changes permanent and further allows the Governor to dismiss Commission members for "cause". "Cause" is not defined and could be as simple as the Commission disagreeing with the Governor about budgeting decisions, dismissal of the Executive Director, or views on how to solve the unrepresented persons crisis.

On January 1, 2025, the Governor gained the ability to terminate and replace OPDC's Executive Director. On April 17, 2025, she did just that citing the failure of the Executive Director in solving the unrepresented persons crisis during her short tenure at the agency. The unrepresented persons crisis is a symptom of a broken public defense system that has been decades in the making. Without adequate funding and a robust workforce to address the underlying issues that brought us to this place, we will not have a fully functioning public defense system. Replacing the Executive Director will do nothing to solve this crisis without also addressing the ways others in the system contribute to the problem. In 2024, the Commission and agency had to spend valuable time and attention transitioning from the Judicial to the Executive branch. Similarly, replacing the Executive Director requires that we pay attention to managing the transition for a new director.

Since 2021, the agency has had five Executive Directors. In 2022, the then Chief Justice dissolved the Public Defense Service Commission and replaced it with new members. SB 337 dissolved that Commission and replaced it with the current

Oregon Public Defense Commission on January 1, 2024. Five Executive Directors and three different Commissions have been unable to “solve” the entrenched problems in the public defense system created by decades of underfunding. The solutions to these problems will not come overnight. Persistent turnover and high burnout among public defenders make solving this crisis exceedingly difficult. The calls by public safety partners to solve this crisis by raising public defender caseloads or reducing standards, also included in HB 2614, do not acknowledge the reality that defense lawyers need adequate work conditions and the ability to provide ethical representation to their clients. Unless these prerequisites are guaranteed, the Oregon Public Defense Commission will not be able to provide enough lawyers to meet the demands of the system. And even if the current unrepresented backlog is resolved, without adequate attention to the system as a whole there is no guarantee the problem will not arise again. Criminal case filings have *increased* nearly 9% YTD and in some crisis counties like Washington County, filings have increased over 28%. With the current budgetary uncertainty, the legislature cannot fund OPDC adequately to meet the demand placed by these increasing case filings or to resolve the unrepresented persons crisis.

The Commission must have the freedom to advocate for realistic solutions and it must have stable leadership that can build coalitions with all participants in the system. We must stabilize the public defense system by ensuring the independence of the Commissioners and the Executive Director from political influence. A revolving door of Commissioners and Executive Directors will only continue to undermine an already fragile public defense system. The power to terminate the Executive Director must be returned to the Commission. The independence of the Commission should be guaranteed by allowing the Governor to remove Commission members only for inefficiency, neglect of duty, or malfeasance, the current language of ORS 151.216.

We ask you to help us solve the unrepresented persons crisis by rejecting the language in HB2614 that undermines the independence of the Executive Director and Commission. Thank you.

Jennifer Nash, Chair
Oregon Public Defense Commission