STATE OF OREGON
POSITION DESCRIPTION

AGENCY: **PUBLIC DEFENSE SERVICES COMMISSION**
OFFICE OF PUBLIC DEFENSE SERVICES

This position is
( ) New
(X) Revised

SECTION 1. POSITION INFORMATION

a. Class Title: Executive Director
b. Class No.: D9446
c. Effective Date:
d. Position No.: 0000229
e. Working Title: Executive Director
f. Organizational Location: Office of Public Defense Services
g. Work Unit: Statewide
h. Employee Name:
i. Work Location (City-County): Salem/Marion

j. Position: (x) Full Time ( ) Limited Duration
(x) Regularly Funded ( ) Part Time ( ) Job Share

k. FLSA: (x) Exempt = Ineligible for overtime pay
( ) Non-Exempt = Eligible for Overtime pay
If Exempt: (x) Exec
( ) Prof
( ) Admin

SECTION 2. PROGRAM/POSITION INFORMATION

a. Describe the work unit in which this job exists. Include program purpose, who is affected, size, and scope. Include the role the unit plays in achieving the purpose of the agency in which it is located.

The work unit in which this position exists is the Office of Public Defense Services (OPDS). The OPDS is established by the Public Defense Services Commission (PDSC), pursuant to state law (Chapter 962, Oregon Laws 2001). The PDSC is an eight-member commission comprised of seven members appointed by order of the Chief Justice and the Chief Justice who serves as a non-voting, ex-officio member of the commission. The Executive Director is appointed by and serves at the pleasure of the PDSC.

The Executive Director is responsible for the administrative structure necessary to provide statewide legal representation for financially eligible persons in all appeals and all trial-level cases, ranging from probation violation cases to death penalty cases, from involuntary commitment proceedings to termination of parental rights cases, and from postconviction relief proceedings to administrative hearings before the Psychiatric Security Review Board. The 2009-11 biennial budget for the program is $223.5 million.

Currently, OPDS is comprised of two divisions: the Appellate Division (AD) and the Contract & Business Services Division (CBS). The operating budget for the two divisions is $13.7 million for the 2009-11 biennium. AD provides representation for over 1,900 criminal, juvenile and parole appeal referrals per year, and employs 39 attorney and 12 non-attorney state employees. CBS is responsible for providing court-appointed counsel in over 170,000 cases per year and involves the provision of legal services by over 1,000 attorneys on an independent contractor (versus state employee) basis. CBS has 15 employees who handle contract negotiation and administration and process billings.

OPDS's purpose and role is to execute the following primary mandates.

- Development and evaluation of plans or methods of providing legal representation for persons entitled to such representation in every county and judicial district in the state. This currently is accomplished by solicitation and identification of attorneys in each locale who are qualified to provide such representation. Such solicitation and identification of attorneys primarily occurs by the issuance of Requests for Proposals (RFPs) for public defense legal services contracts. Currently, there are more than 100 contracts with attorneys, law firms, public defender offices, consortia of attorneys and non-attorney professionals.

- Development of and ensuring compliance with policies, procedures, and guidelines governing the provision of public defense services and the statewide eligibility verification program. These currently include attorney

professional qualification standards, financial eligibility standards, eligibility verification specialists' duties and responsibilities, the application and contribution program, contracting standards and criteria, and public defense fiscal matters such as the administrative review of extraordinary expense requests program, hourly rate fee guidelines for lawyers and other professionals, expense reimbursement and public defense providers' reporting requirements.

- Preparation of the biennial budget for the state's Public Defense Services Account (PDSA) for submission to the PDSC. The PDSA is the source of funding for the OPDS's operations and all public defense service fees and expenses.

Who is affected by the work of OPDS? OPDS's work directly affects those who are provided state-paid counsel and those who provide such representation. Its work affects trial and appellate judges, trial court administrators and court staff, including eligibility verification specialists, District Attorney offices, the Department of Justice, community corrections departments, the Department of Corrections, county juvenile departments, the State Office for Services to Children and Families (SCF), the Legislative Assembly and the citizens/taxpayers of Oregon.

b. Describe the purpose of this position, and how it functions within this program, by completing this statement:

The purpose of this job/position is to . . . ensure the provision of competent and cost-effective legal representation in state court proceedings where mandated by the federal and state constitutions and state law for persons who are financially eligible for such representation, in compliance with all state laws and OPDS policies and consistent with national standards for such representation. The Executive Director serves as the Chief Executive and Financial Officer of the program and is directly responsible and accountable to the PDSC.

SECTION 3. DESCRIPTION OF DUTIES

List major duties. Note percentage of time duties are performed. If this is an existing position, mark "N" for new duties or "R" for revised duties.

The Executive Director's statutory duties are as follows:

1. Recommend to the PDSC how to establish and maintain, in a cost-effective manner, the delivery of legal services to persons entitled to, and financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon Constitution, the United States Constitution and consistent with Oregon and national standards of justice.

2. Implement and ensure compliance with contracts, policies, procedures, rules and standards adopted by the commission or required by statute.

3. Prepare and submit to the PDSC for its approval the biennial budget of the commission and the OPDS.

4. Negotiate contracts, as appropriate, for providing legal services to persons financially eligible for appointed counsel at state expense. All contracts are subject to the review and approval of the PDSC.

5. Employ personnel or contract for services as necessary to carry out the responsibilities of the Executive Director and the OPDS.

6. Supervise the personnel, operation and activities of the OPDS.

7. Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the Public Defense Services Commission.

8. Pay the expenses of the PDSC and OPDS.

9. Prepare and submit to the commission (annually) and the Legislative Assembly (biennially) a report of the activities of the OPDS.

10. Provide for legal representation, advice and consultation for the commission, its members, the Executive Director and staff of the OPDS, as necessary.

The following anticipated duties of the Executive Director are based upon the above statutory duties.

% of Time	N/R	DUTIES
30%	N	Manager of the Office of Public Defense Services and PDSC Support. Serve as the PDSC's chief executive and financial officer to ensure the effective management of OPDS. Develop, monitor and promote the mission, goals and objectives of the PDSC and OPDS. Provide for all support resources and information necessary for the PDSC to perform its statutory and other responsibilities effectively and in a timely manner. Prepare and submit legislatively required reports to the PDSC and the Legislative Assembly. Employ, supervise and provide for the training of senior management and other OPDS staff. Prepare and revise, as needed, a compensation plan for the OPDS that, if adopted by the PDSC and properly funded, is commensurate with other state agencies and provides for parity for professional and non-professional staff. Provide for human resources systems, policies and support for proper management and staff assistance. Provide for information technology systems and support necessary for the effective and efficient operation of the OPDS. Provide for accounting and auditing systems, policies and procedures, and staffing that ensure fiscal accountability, compliance with all state laws, and the review and processing of Public Defense Services Account obligations in a timely manner. Provide for the review and approval of administrative costs for OPDS and PDSC and proper management of the fiscal resources appropriated to the PDSC, OPDS and the Public Defense Services Account. Ensure the establishment and revision of all other necessary office policies and operating procedures in a timely manner and ensure compliance therewith.
30%	N	Manager of Oregon's Public Defense System. Serve as the PDSC's chief executive and financial officer to ensure the effective management of the statewide public defense system and the provision of quality, mandated legal representation to those who are eligible. Develop, monitor and promote the mission, goals and objectives of the PDSC and OPDS. Provide for the preparation and revision, as needed, of public defense policies and procedures, as required by law and as otherwise necessary, in accordance with national and state standards for the public defense function and submit the same for adoption by the PDSC. Such policies and procedures include, but are not limited to professional qualification and performance standards for legal representation, compensation rates and limitations, financial eligibility for appointed counsel, the appointment of counsel and procedures for contract negotiations. Provide for management systems and personnel to ensure timely monitoring of expenditures from the Public Defense Services Account and trending of caseloads. Provide for management systems and personnel trained to review attorney and non-attorney written contract proposals, including methods to assess the quality of and cost-effectiveness of the proposed services. Provide policy and procedures for OPDS staff responsible for negotiating preliminary agreements for contract services. Review all preliminary agreements and submit proposed contracts to the PDSC for approval. Serve on or provide for OPDS representation on local, statewide and national committees that impact or are involved with the public defense function; e.g., state criminal justice advisory committee, the Juvenile Court Improvement Project, Oregon State Bar public defense task forces. Provide support to local public defense providers, as needed, for improvements to the justice systems within which they work.
30%	N	Legislative -- Budget, Fiscal Impact Statements, Substantive Law and Education Prepare the biennial budget of the PDSC and OPDS and submit the budget for the PDSC's approval. Advocate and provide the support and education services necessary for the legislative adoption of a budget that will ensure the effective and efficient administration and provision of public defense services.

Prepare budget presentations, documents and reports for the PDSC and the Public Safety Subcommittee of the Ways & Means Committee, in support of the biennial essential budget level and policy packages. Appear before the Public Safety Subcommittee to assist the PDSC and the Chief Justice in the presentation of the budget request and respond to questions from subcommittee members and staff.

Provide for the identification and drafting of legislative concepts necessary for the effective management of the PDSC, OPDS and the public defense program. Review legislative counsel bill drafts and amend as needed. Write testimony for submission to the Legislative Assembly regarding bills that involve or impact the public defense program, PDSC or OPDS. Appear before legislative (generally, judiciary) committees, provide testimony and address legislators' questions on bills and the public defense program.

Provide for the review and assessment of bills that will impact (fiscally, procedurally, substantively) the public defense system. Provide for the preparation of formal Fiscal Impact Statements (FIS) for submission to the Legislative Fiscal Office, generally under very short time frames.

Serve on or provide for OPDS representation on work groups established by legislative committee chairs on topics related to public defense and the justice systems in which public defense representation is mandated.

During legislative interims, as well as during legislative sessions, actively engage in educational and outreach efforts to enhance legislators' understanding and appreciation of the public defense function and system in Oregon, including the positive impact the function has on other justice system components.

10% N Additional Duties.

Review and respond to contacts from the press, judges, trial court administrators, legislators, other states' and governments' public defense programs, and others on issues relating to Oregon's public defense system. Provide for legal representation, as needed, for the PDSC and OPDS staff, including the review of subpoenas and public records requests. Meet with public defense providers on a regular basis, including local visits. Arrange and directly participate in outreach efforts to educate the public, private sector businesses and organizations, and state and local government representatives on the public defense function and the importance of its role.

SECTION 4. *SPECIAL* WORKING CONDITIONS

Describe special working conditions, if any, that are a regular part of this job. Include frequency of exposure to these conditions.

"Special working conditions" are defined for purposes of this position description as ones that are "out-of-the-ordinary" when compared with the known working conditions of other state directors.

The Executive Director is responsible for a high-profile, statewide mandated program that primarily affects over 1,000 lawyers and other professionals, the PDSC, the staff of OPDS, judges and persons who face the potential of loss of liberty or other protected interest such as one's parental rights.

The Executive Director is directly and indirectly responsible for daily actions by OPDS. The Executive Director is directly and indirectly responsible for daily actions by judges (appointment of public defense counsel), lawyers (quality of representation), non-lawyer professionals, and some state court employees (e.g., eligibility verification specialists) involving public defense decisions on a statewide basis. Actions by these people impact the state general fund (ordering recoupment of public defense costs), the Public Defense Services Account, the constitutional and statutory rights of individuals, and all components (for example, District Attorneys, DHS/SCF, Department of Justice, jails) of the criminal, juvenile, civil commitment, and other civil justice systems at the trial and the appellate levels.

The Executive Director's responsibilities are significantly diverse. They include:

- an extensive knowledge and understanding of the statewide and local (36 counties) criminal, juvenile, civil commitment, and other civil justice systems within which public defense services are mandated;

- the ability to identify, analyze and effect changes in these systems (such as working with judges, prosecutors, probation and jail administrators, and defense lawyers) to establish new programs that will benefit public defense services/costs/clients and all of the components in general;

- an extensive knowledge and understanding of primarily criminal, juvenile and evidence law for purposes of extraordinary expense request reviews, as well as preparing detailed fiscal impact statements, identifying and proposing legislative changes, and identifying barriers to or efficiencies created by such laws for state-paid attorneys and other public defense providers;

- an extensive knowledge and understanding of constitutional and statutory law regarding an eligible person's right to state-paid counsel;

- an extensive knowledge and understanding of state financial, contract and management law, policy and best practices;

- supervisory and organizational skills; and

- the ability to communicate effectively with PDSC members, OPDS staff, judges, members of the Legislative Assembly, prosecutors, persons and entities who undertake studies of Oregon's public defense program, the press, persons who receive state-paid legal representation and persons who actually provide direct services to those eligible for public defense representation.

The Executive Director is responsible for dealing with a diverse group of people who are directly involved with or have an interest in the public defense function; e.g., legislators, reporters, judges, defense lawyers, prosecutors, state and trial court administrators, persons who apply for appointed counsel and persons (relatives and family) who contact the Executive Director with concerns, taxpayers and other citizens, court employees such as verification specialists, prosecutors, law enforcement and other state and local agency representatives, and persons and organizations involved in the public defense function in other jurisdictions.

The Executive Director is responsible for administering the OPDS and state's public defense system program often under significant constraints; e.g., lack of direct control over workloads and costs in many instances and historically, limited staffing and other resources. Many of the daily contacts from judges, TCAs, court staff, legislators, the press and others relate to unpopular or sensitive (some confidential) matters and involve and require responses or action within a very short time frame.

The potential consequences of errors made by the Executive Director, PDSC and OPDS staff are substantial in terms of the impact on state general fund monies and a person's constitutional and statutory legal rights.

SECTION 5. GUIDELINES

a. List any established guidelines used to do this job, such as state or federal laws or regulations, policies, manuals or desk procedures.

   State and federal constitutions, federal (for example, Adoption and Safe Families Act and Indian Child Welfare Act) and state statutes, appellate court decisions, state financial and contract laws, and PDSC/OPDS policies, procedures, and guidelines consistent with state and national standards.

b. How are these guidelines used to perform the job?

   The Executive Director is required to have a comprehensive knowledge of the above. The federal and state constitutional provisions, the appellate court decisions and the federal and state statutes that affect the appointment of counsel at government expense provide the "bedrock" for performance of the Executive Director's job. The Executive Director must be able to correctly interpret these provisions and ensure that OPDS staff correctly interpret and perform these job responsibilities in compliance with the same. As with many aspects of the law, new fact situations and gray areas in current law require legal research and analysis be conducted on an on-going basis. Policies, procedures and guidelines are used by the Executive Director and the Executive Director's staff in many areas of job responsibility; for example, personnel matters, accounting and auditing functions, and ensuring the effective representation of those eligible for public defense services. The Executive Director is required to exercise professional judgment and skill to interpret and apply existing policies/procedures/guidelines and to establish new policies/procedures/guidelines to conform with changes in the law and to address gray areas.

SECTION 6. WORK CONTACTS

With whom outside of co-workers in this work unit must this position regularly come in contact?

Who Contacted	How	Purpose	How Often
Chair and Vice-Chair of the PDSC	In person, phone, writing*	Provide information/input/advice and seek information/input/advice related to PDSC and OPDS budgetary, administrative and other matters.	Weekly
Other PDSC Members, including the Chief Justice	In person, phone, writing*	Provide information/input/advice and seek information/input/advice related to PDSC and OPDS budgetary, administrative and other matters.	At least monthly
Legislators Legislative Fiscal Staff Legislative Counsel Judiciary Committee Staff	In person, phone, writing*	Provide financial and budgetary information, present and advocate for PDSC and OPDS Essential Budget Level and policy packages before Ways & Means subcommittee, provide testimony and background information (including Fiscal Impact Statements) for substantive legislation submitted by PDSC/OPDS or impacting the same. Provide outreach, educational and other informational materials during the legislative interim and session. Serve on and play an active role in interim legislative work groups.	Varies — frequent during Legislative Session and budget preparation cycle. On-going and as requested during interim.
State Court Administrator and SCA Divisions	In person, phone, writing*	Share information and concerns, coordinate the state courts' eligibility verification program.	Monthly
Chief Justice, Chief Judge of the Court of Appeals, and Their Staff	In person, phone, writing*	Share information and address/resolve concerns; e.g., re: appointment of counsel.	Monthly
Public Defense Contractors and Other Providers	In person, phone, writing*	Share information and concerns, respond to requests, address/resolve concerns.	Daily/Weekly
Circuit Court Judges, Trial Court Administrators, Court Staff	In person, phone, writing*	Share information, respond to requests, address/resolve concerns.	Weekly
Prosecutors/Department of Justice/Department of Human Services/Other Criminal/Juvenile Justice Component Participants	In person, phone, writing*	Share information and respond to requests, as appropriate, address/resolve system and system component issues. Serve on and play an active role in statewide and local planning groups in which the public defense function is involved.	Weekly/Monthly
Oregon State Bar	In person, phone, writing*	Receive information/concerns re: public defense representation, respond to requests for information, address and resolve concerns, seek ethics advice on behalf of providers and staff, and request bar disciplinary information on providers. Serve on public defense and related OSB committees/task forces.	Monthly
Other Local, State, National and International Agencies/Organizations	In person, phone, writing*	Play an active role in the establishment of national standards related to the public defense function and provide information/input and seek information/input.	Monthly
Department of Administrative Services Staff	In person, phone, writing*	Provide for and receive accounting and budgetary information, coordinate activities and outreach.	Varies—heavy in budget preparation cycle of even-numbered years
The Press	In person, phone, writing*	Generally, respond to requests for information, as appropriate.	Bimonthly

Who Contacted	How	Purpose	How Often
Public Defense Clients	In person, phone, writing*	Receive information/concerns re: public defense representation, respond to requests for information, address and resolve concerns.	Monthly
Other Oregon Citizens	In person, phone, writing*	Receive information/concerns re: public defense representation, respond to requests for information, address and resolve concerns.	Bimonthly

* "In writing," includes e-mail and correspondence by regular mail.

SECTION 7. JOB-RELATED DECISION MAKING

Describe the kinds of decisions likely to be made by this position. Indicate effect of these decisions where possible.

The Executive Director makes decisions that have substantial fiscal impact (for example, contracting strategies and negotiations) and substantial impact on the courts and other justice system components. Current public defense contracts range from a contract with one attorney at an annual amount less than $20,000 to a multi-million dollar contract with a public defender entity that provides representation in two of Oregon's largest counties. Decisions made regarding who will be providing public defense legal or non-attorney services can positively or adversely impact other justice system components, as well as the persons who receive the services. An inexperienced, untrained, disorganized and unsupervised attorney can be disastrous for the court, prosecutor, county juvenile department and others, including the attorney's clients.

The Executive Director will be responsible for researching, drafting and recommending the adoption of policies and procedures by the PDSC that pertain to: the determination of financial eligibility for public defense representation; the appointment of counsel; compensation for lawyers and others who provide public defense services; performance standards for legal representation; contracting; and the handling of compensation disputes. The Executive Director is responsible for ensuring the PDSC performs its responsibilities in a timely and effective manner.

The Executive Director may be required to make legal decisions or obtain legal advice on a regular basis on issues that may range from ones regarding contract law, public records law, employment law, and OSB ethical issues. The Executive Director must make informed decisions regarding interpretations of constitutional, statutory and appellate case law.

The Executive Director makes decisions with respect to requests for information received from the press, legislators, citizens, other system components, competitors for public defense contracts, judges, and task forces and other entities (local, national and international) who review or study the state's public defense program. The Executive Director must decide what information is provided based upon public records and other laws and in what form information is provided.

The Executive Director is responsible for explaining, promoting and defending, if necessary, the public defense program, the PDSC and OPDS.

The Executive Director makes management and personnel decisions as set forth in Section 9 of this position description. The Executive Director is responsible for making decisions, subject to position authority, funding and compliance with personnel rules and related law, regarding the structure of the OPDS and how the office's workload is managed and allocated. The Executive Director, in consultation with the PDSC and OPDS staff, must frequently make difficult decisions with respect to OPDS personnel, responsibilities and workloads.

In summary, the Executive Director's well-reasoned and otherwise good decisions will have a positive impact on OPDS personnel, public defense attorneys and non-attorney providers, other system components and the Public Defense Services Account and state general fund. Poor decisions by the Executive Director can result in wasted general fund dollars, including from the Public Defense Services Account, system-wide adverse impacts on other justice components, possible injustices to those who receive appointed counsel and potential liability for the PDSC and the Executive Director.

SECTION 8. REVIEW OF WORK

Who reviews the work of this position? (List classification title and position number.) How? How often? Purpose of the review?

The Public Defense Services Commission is the direct supervisory authority for this position. The PDSC chair and other members review the Executive Director's work on a periodic and an as-needed basis. The purpose of these reviews is to ensure the Executive Director is performing his/her statutory and other responsibilities effectively and in a timely manner, the commission's and OPDS's responsibilities are being executed effectively and efficiently and that there is accountability, fiscally and performance-related, for the provision of public defense services.

The PDSC will adopt performance measures and performance evaluation standards for the Executive Director position and will complete annual performance evaluations. The purpose of such reviews is to ensure compliance with the constitutional and statutory mandates governing the state's public defense program, fiscal accountability of the program, and compliance with all other state government laws, policies and procedures.

SECTION 9. SUPERVISORY DUTIES

a. How many employees will be directly supervised by this position? 2 FTE

Through subordinate supervisors? 66 FTE

b. What percentage of time does this position perform these duties? Estimated 20%

c. Which of the following supervisory/management activities does this job perform?

(x) Plans Work
(x) Assigns Work
(x) Approves Work
(x) Responds to Grievances
(x) Disciplines/Rewards
(x) Hires/Fires (or Effectively Recommends)
(x) Prepares and Signs Performance Appraisals

SECTION 10. ADDITIONAL JOB-RELATED INFORMATION

Any other comments that would add to an understanding of this position:

The Executive Director position is unusual in that the Executive Director does not have a direct employer/employee relationship with the majority of persons who have the ability to impact the Public Defense Services Account and the quality of services rendered. Such persons include judges, state court eligibility verification staff, state and local law enforcement, prosecutors, other state agencies and the majority of persons who provide public defense representation. Although contractual agreements with the majority of attorney public defense providers, as well as policies, procedures and guidelines, assist the Executive Director in controlling expenditures from the Public Defense Services Account and the quality of services, the fact that the mandated services are simply that – "mandated" – and that factors outside the Executive Director's control directly impact the public defense system result in significant management challenges.

The Executive Director's ability to establish excellent working relationships and maintain credibility with the attorneys and other professionals who actually provide public defense services, legislators, judges and others is critical to the administration of the program and OPDS.

SPECIAL REQUIREMENTS: List any special mandatory recruiting requirements for this position:

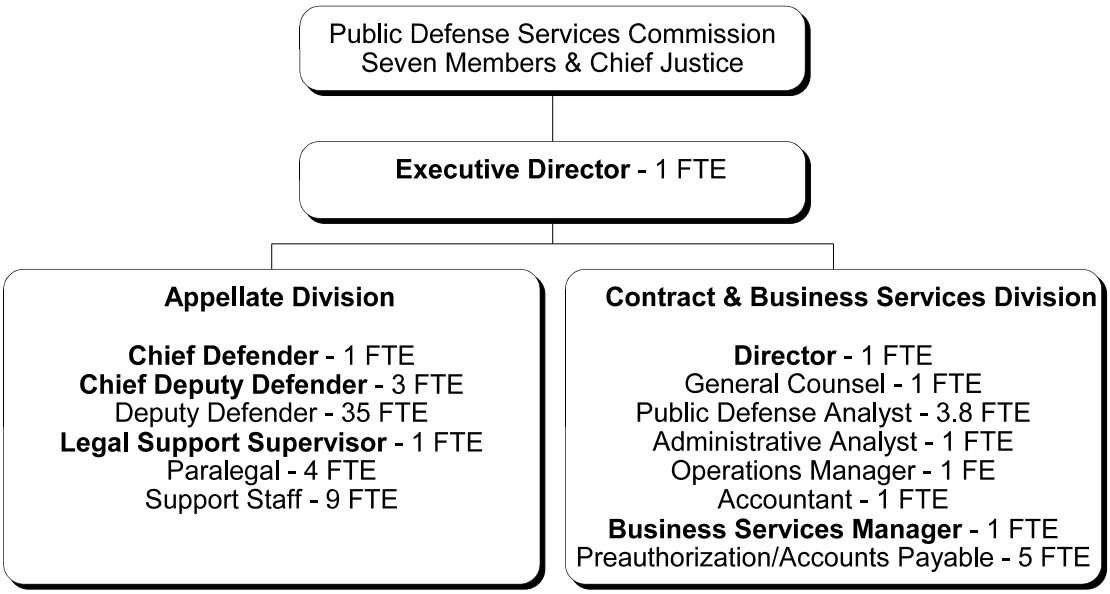
An advanced degree such as a Juris Doctor degree, masters degree in public or business administration, or other similar advanced degree is preferred. Prior experience with increasing levels of responsibility in the area(s) of the provision or administration of public defense services or other government-mandated services (particularly those involving "privatized" service delivery systems), government finance, or public administration is required. Strong communication and leadership skills are required.

Regular daytime and overnight travel are required for educational and other business purposes. Particularly during the budget preparation cycle and the legislative session, evening, weekend and holiday work may be frequent.

BUDGET AUTHORITY: If this position has authority to commit agency operating money, indicate in what area, how much (biennially) and type of funds:

The Executive Director will have authority to commit all monies appropriated to the PDSC/OPDS, subject to PDSC approval where required by statute or policy. These monies are state general fund and other fund monies and are in excess of $223 million for the 2009-2011 biennium.

SECTION 11. ORGANIZATIONAL CHART



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Employee Signature Date

Appointing Authority Signature Date