

Jennifer Nash: Good morning and welcome to the March 21st meeting of the Oregon Public Defense Commission. I'm Jennifer Nash, the Chair of the Commission. We have a very full agenda today and we will get started shortly. Just to recap, yesterday, we had a morning private retreat where we discussed team building and how to develop a strategic plan. In the afternoon, we had a public meeting. We also did a required training. In the afternoon, we had a public meeting regarding more organizational development, strategic planning.

We had a robust discussion about our bylaws and adopting and amending new bylaws. We start today. I'll start this morning with public comment. We have a number of people that want to give public comment. Because of that, I'm going to have to limit the public comment to three minutes at each person. I'm going to set a timer, which I just set to an hour so we're not going to do that. When the time is up and you hear the timer, I'll have to stop you for your public comment. But, please, I know a number of people also submitted written comment. I acknowledge that at this point although I'm not going to list all of the people. The public comment will be appended to the meeting minutes and meeting materials for our April meeting.

Sen. Floyd Prozanski: Madam chair.

Jennifer Nash: Yes.

Sen. Floyd Prozanski: I also understand that an individual who may not complete their oral testimony will have some amount of time to put in written testimony. Do we have a timeframe for that?

Jennifer Nash: I can't remember what we decided yesterday. Let's just say...

[Crosstalk 00:01:54]

Jennifer Nash: 48 hours, right. I'm sorry. Thank you. 48 hours from today if you want to submit additional public comment or public comment that wasn't add rest, you can do that in writing within 48 hours of 9:00. With that, I'll start with Sean McCrae.

Shaun McCrea: Good thing I made it through traffic. I'm right here. Where would you like me?

Jennifer Nash: How about right there. Perfect.

Shaun McCrea: Good morning. I'm Shaun McCrea, Executive Director of the Oregon Criminal Defense Lawyers Association known as OCDLA. I want to talk to you about three things today and hope I can do it in three minutes. First, as someone who served on the original Oregon Public Defense Services Commission for 16 years, 15 as vice chair, one as chair before I was called to take over OCDLA, I want to say thank

you. Thank you, Chair Nash for being willing to continue. Thank you, members of the commission, for being willing to serve. I know it sounds trite these days but I know the challenges involved. Oregon is a special and unique jurisdiction. As we know, one size does not fit all. So, thank you for what you do. Second, I want to report to you about the success of the trial skills college that was held in January of this year with the great assistance of Lewis & Clark Law School and many public thanks to Joe Perini-Abbott and her staff who really helped us make this happen. This was a collaboration with then OPDS.

I also want to give a public thanks to K.O. Berger of the agency who was invaluable in assisting with this. The trial skills college is a two-and-a-half-day intensive workshop. It involves lectures, small group practice on things like cross-examination, closing argument, [Inaudible 00:03:58] and then video review. This was for the attendees of the Gideon's Promise boot camp that OPDS had a grant for. Our time frame in setting up the trials Coast College was really short but it went well and I wanted to make sure that I told you that. Third, looking to the future. OCDLA wants to continue to partner with OPDC for programs like the trial skills college.

We also want to be able to help with education of lawyers beyond in-person or webinar training. Two examples — one, we have our Library of Defense which is an online compilation of case law procedure strategy. Lawyers can't find all the answers there but they can find a lot of answers there and they won't have to reinvent the wheel. We want OPDC to give us financial assistance to make it as good as it can be. You would not have to be a member to access it although of course we'd like everyone to be an OCDLA member. Separately and additionally, we would like OPDC to have a subscription for every public defense provider to the OCDLA books online. Was that my time?

Jennifer Nash: That's your time.

Shaun McCrea: Okay. And I will send you a written update about what that entails. Thank you so much.

Jennifer Nash: Thank you. Next, Olcott Thompson.

Olcott Thompson: Thank you, Chair Nash and members of the commission. I am Olcott Thompson. I'm the executive director of the Marion County Association of Defenders known as MCAT. It's the consortium in Multnomah County, which ultimately, even though the public defender office is funded more than we are and funded for more lawyers, we are doing the majority of the work. I submitted written comment which hopefully you have received. Chair Nash is shaking her head yes so I appreciate that. Going to try and shorten this as much as possible. Regarding adding lawyers as I noted in my written comments, the agency can say yes and

move money around rather than just saying, "Wait, wait, wait. We'll let you know at some point." The only time they let us know is when we ask. There's no very little if any proactive work by the agency. The agency can make commitments for funding for a period of time.

If you hire somebody in the next 30 days or add somebody in [Inaudible 00:06:55] of consortium, we will fund that money. So, set it aside. Don't expect something like that to be open-ended. Ultimately, the agency can be at least be open with their process and work with providers that make a process that works. Talk to us. We can help, you can help but ultimately, it seems like all they really want to do is engage in the most expensive option rather than consider what is probably the least option in relation to a consortium. Regarding retention, consortia costs less.

Regarding retention, you need to use it to if you will reward and incentivize retention not just the number of filled positions on a particular day especially right now, we can't add anybody so we're going to get penalized if we don't add somebody on April 1st if the agency says, "Oh, you can add them on April 2nd." That process creates a conflict within the agency. If we have retained attorneys... We have MCAT retained almost all of its attorneys since July 1st of 2023. The local PD's office has lost about half of theirs and yet under the proposal from the agency, the PD's office will get more money and retention money then we will because it's just based on the number of people that are under contract at that point. Finally, the most concerning thing I have heard over the past two weeks was the comment that was posted by a provider on the OCDLA [Inaudible 00:08:45]. I have spoken with members of the OPDC commission...

Jennifer Nash: Mr. Thompson, I'm going to have to stop you. I'm sorry. Can you please submit the remainder of your comment in writing?

Olcott Thompson: No problem.

Jennifer Nash: Thank you.

Olcott Thompson: Thank you. And it will be within 48 hours. Okay.

Jennifer Nash: Thank you. All right. Next, we have Heather Busby from Youth, Rights and Justice. There were some people that were going to be virtual. Was she going to be in person or virtual? I didn't write that down.

Eric Deitrick: She was listed as in person I don't know if it changed.

Jennifer Nash: All right. I'll skip over her and call her later if she's here. Bernie Brown, investigator, who I think was going to be virtual.

Bernie Brown: I am here.

Jennifer Nash: Oh, perfect. All right, Mr. Brown, I don't know if you were able to hear but you're going to be limited to three minutes.

Bernie Brown: I understand that. Thank you, Chair Nash.

Jennifer Nash: Go ahead, thank you.

Bernie Brown: My name is Bernie Brown. I'm a mitigation specialist with nearly 22 years a licensed private investigator and nearly 17 years of experience in law enforcement. Regarding the slow payment process and authorization request times, we're led to believe that the process time is calculated in working days where accounts payable staff is in the office not able to work remotely. Today, I received notice of payments being made tomorrow on invoices I submitted on February 7th and the 9th. Many attorneys tell investigators to start work on case because requests were submitted but it wasn't that long ago when it was suggested investigators not start work until we had authorization in hand to prevent work being done prior to the effective date. Perhaps providers need to return to that process.

I know of a newly established investigator that exhausted 40 hours of work. The case was resolved and adjudicated, still the investigator was waiting for an authorization. Now, take into account the delay of getting invoices. Hopefully, there wasn't much for non-routine expenses. I'm currently working long-term cases without valid authorization and have around 80 hours tied up. The longest request was submitted on February 6th. January 22nd, I learned an unhoused witness had been located that I'd been trying to locate for eight months was in custody in Klamath Falls. A rush travel request was submitted on January 23rd and it wasn't approved until February 29th. The person was no longer in custody and I do not know where they are today. I'd suggest an avenue for such urgent requests. I've also spoke to Laura Ratal, [Phonetic 00:11:17] a mitigation specialist on a current situation of hers where HER travel authorization was so delayed that the individual that she was looking for had moved to Mexico.

My frustration with low rates, current status of the authorization and invoice approval schedule is shared by my colleagues and has led to a large number seeking work outside of Oregon Public Defense Services. Much like the defense attorney's crisis, the same applies for investigators and mitigators as we too have run thin. I often see solicitation for investigators and mitigators willing to take cases at the public defense rates. Colleagues are being solicited to take on new cases and having to decline those cases as to having an already critical case load and the current rate that makes a cost of doing business more and more difficult. In closing, it is primarily because of the mistrust surrounding hourly rates that I

stopped taking standard court appointed cases last September and I stopped taking new court appointed cases entirely as of January 1st. Due to the respect for the teams and the clients that I'm working with, I will finish those cases that I now have and retire. However, that will not stop me from advocating for and mentoring those that are still working hard to aid their clients in getting a fair trial. Thank you for your valuable time.

Jennifer Nash: Thank you, Mr. Brown. We appreciate it. All right, Steve Gorham. Is Mr. Gorham going to be...

Commissioner: : [Inaudible 00:12:47].

Jennifer Nash: All right. Salvador Peralta.

Salvador Peralta: Morning, Chair Nash and members of the commission. My name is Sal Peralta. I'm the Executive Director of the Oregon Defense Consortia Association, which represents more than 180 attorneys throughout the state. Thank you for serving in this role and for the thoughtful approach you've taken in your meetings. Our association is worried that the broad scope of the agency's current work plan is causing it to fall short in terms of reducing the unrepresented crisis and adhering to both its own intent and the legislative intent for greater board stake holder and policy maker inclusion in the agency's transformation. The agency is trying to set up local offices, transition to the executive branch, professionalize its internal operations, address internal staff retention and planning to take on the direct management of significantly more hourly private attorneys while needing significant staff training and reassignment all with too few attorneys in the state who are willing to do public defense work at all.

All of these are big challenges, any of these are big challenges even in the best of times let alone during an unrepresented crisis that will get bigger with repeal of Measure 110. As your packet shows, this is already playing out in terms of longer wait times for council today than when the crisis started and it's led to disruptions in at least two counties with the result being 16 more children who lost representation in Grant and Harney Counties. Two of the upcoming steps in your plan eliminating direct contracting with private bar members in 2025 and with consortia in 2027 will result in fewer defenders taking cases and will raise the cost of providing services among those that remain. This is true whether they remain in the private bar or take jobs at the state. In 2023, private bar public defenders provided at least 60% of all public defense services in Oregon.

According to data presented by the Oregon Judicial Department this year, private bar defenders and consortia hit 91% of their max statewide in 2023 compared with 78% for non-profit defense firms. OJD has informed me that their data shows no difference in outcomes between provider types and yet the system will retain

current non-profit contracting but not for consortia or the private bar. As defenders transition to state agency work, the cost-of-service level can be expected to increase by 40% on an hourly basis while caseload will be expected to drop based on the Oregon Department of Justice estimates of billable hours and hourly legal rates of all in costs associated with the workforce operating under similar union contract and compensation rates to OPD, TPC defenders versus the assumptions made in the 2022 Moss Adams caseload report. We'd like to make three recommendations that we'll provide in more detailed written form.

First, we agree with several of the Judicial Department recommendations in your meeting packet we. Suggest OPDC give the transition process a longer runway before eliminating current direct contracting with providers and consortia. The agency should base its decisions on data and sound fiscal policy to ensure greater access to constitutional representation. The agency should take actions to increase capacity and create greater certainty and equity in the workforce. Our members are continuing to do much of the hard work to address Oregon's unrepresented crisis. You've heard today from different providers that are very frustrated with their relationships and concerned about hourly contracting with this agency who support the efforts of this board and the policy directions to adopt standards at the agency. I hope these are... Sorry, I didn't hear that.

Jennifer Nash: That's okay.

Salvador Peralta: Hope they're taking the contract [Inaudible 00:16:17] spirit they're intended.

Jennifer Nash: I saw that you submitted written comment as well. I appreciate that and if you'd like to submit additional written comment, that would be wonderful.

Salvador Peralta: Thank you.

Jennifer Nash: Thank you. All right. Is Ms. Busby or Mr. Gorham available? All right that's all I have for public comment. Did I miss anyone, Mona? All right, thank you. All right. Moving on then to the next agenda item which is approval of the February 7th OPDC meeting minutes. Does anyone have any concern, questions, corrections, any of the above to the meeting minutes? Which on [Inaudible 00:17:16].

Susan Mandiberg: I'm looking for the page number.

Jasmine Wright: It's on Page 52. It's on the PDF.

Jennifer Nash: Page 52 of the PDF. I know I've read them but I can't find them in my... I printed out my... Oh, [Inaudible 00:18:04]. They're on Page 45 of the printed version of the documents. Any corrections, any concerns, notations, anything? All right. With that, is there a motion to approve the February 7th 2021 meeting minutes?

Jessica Kampfe: So moved.

Jennifer Nash: Is there a second?

Commissioner: . I second.

Jennifer Nash: And is anyone opposed to that? Having no opposition, the motion passes and we approve and adopt the meeting minutes from February 7 2024. All right, let's move on to the next item in our agenda which is the briefing on the six-year plan to reduce representation deficiency. I'll have the presenters come forward. Is there going to be anybody else in person or virtual?

Jessie Lenhardt: Virtual.

Jennifer Nash: Virtual, okay. All right. I will just ask you for the record to introduce yourselves instead of me introducing everyone because I'm not sure who's actually going to be [Inaudible 00:19:15].

Scott Simpson: Sure.

Jennifer Nash: Thank you.

Scott Simpson: Thanks for having us. I'm Scott Simpson. I'm a partner with Moss Adams.

Jessie Lenhardt: I'm Jessie Lenhardt. I'm a senior manager with Moss Adams.

Scott Simpson: We're part of the group that produced the six-year plan. I believe we have with us virtually, Stephen Hanlon as well as Malia Brink and they both were involved. I'll get to that in a moment. Okay. We're going to be talking about the six-year plan today. First, we're going to talk about a little bit who was involved, give a brief overview of the project. Talk about the deficiency analysis, baseline budget, staffing trajectory or staffing strategy and then intervention impacts. Here is a list of people that were involved. We do include this at the very beginning of our six-year plan. From Moss Adams was myself, Jessie. We had Annie Fadely, Emily Hayes. Also working on it, Jim Austin of JFA Institute was involved. Jim Austin was the principal investigator on the Brenn Center report. Malia Brink, who is now with the Deacon Center at SMU.

Prior to that, Malia was with the ADA. And then Stephen Hanlon who has a long history of working in this space. Beyond those people, we did also include discussions with OC JC, Oregon Office of Economic Analysis as well as numerous people within the OPDC group. Special thanks to Eric K.O. who was a huge help throughout the entire process, Gabriel, Jesse and then many others. So, large

group involved in this. Really our project overview, we were hired to create and draft a six-year plan. Actually, it started out as a five-year plan to reduce public defender deficiency. Due to the way the Oregon budgets, we upped that to a six-year plan to match up with bienniums.

The project took place between September 2023 and March and it's pretty much solely focused on adult criminal. Getting the information for juvenile was a little more extreme in gathering that data and as well as... Let's see here....appellant. We did not do appellant either. It's pretty much purely focused on adult criminal. Here's the things that we took into consideration when we created this six-year plan. State funding increases, caseload, either increases or decreases projected, percent of public defender deficiency attributed to like I said, just adult criminal. We did embed in there some sentencing reform and the impact that that could have, a decriminalization analysis as well and then cost savings on the correctional system based on sentencing reform.

And then we also included in this six-year plan, an analysis of increasing support personnel. So, investigator, administrative core personnel and others. We do have a pretty lengthy section in there talking about impact that increasing those support personnel could have on the deficiency analysis. Here's what we calculated for the deficiency analysis. We first started with the current case loads. We ran them through the Delphi analysis that was embedded in the Oregon Project. It calculated that the need was 1,296 full-time attorneys to cover the cases in Oregon. The six-year plan deficiency calculates that there would be a need of 564 additional public defenders as of today. That number is reduced throughout the plan. We're going to get into that right now. I think, Jessie, you're going to go from here.

Jessie Lenhardt:

Yeah. As Scott mentioned, we took a look at some historical adult criminal caseload trends going back to 2017. What we noticed in that analysis is there's an average 1.4% decrease in adult criminal case loads year-over-year. That average does not include 2020 in that change because caseloads dropped pretty precipitously as a result of the global pandemic. As an anomaly it wasn't included in the analysis. To get to that 480 full-time adult criminal attorney FTEs by 2031 we applied that 1.4% decrease over kind of the forecasted years in order to get to that total. So, walking through that piece. Then we arrive at our baseline staffing plan. This really looks at what it would take to eliminate the deficiency exclusively looking at recruitment of adult criminal attorneys.

We know that one of the parts and a piece of the analysis, again that Scott covered, is that this is not the only path forward. There is another path forward that does include really strategic hiring and recruitment of case support, non-attorney case support personnel. We'll go into that as well. But if we exclusively take those two factors into consideration hiring adult criminal attorney FTEs and

that 1.4% reduction in caseloads over a six-year period, we arrive at this total need in 2031 of 986. This is also based on what we understand again as a snapshot of the current number of contracted attorneys again at the time of this report. That's where this 500... Oh, so excited I get to do this. That's where there's 506 number comes from. Now, we know for a number of reasons that 506 number is likely to change for again, based on retirements, availability of staff. It's normal that that would change. So, these numbers are also likely to be updated again over those six years to account for just that natural turnover. The other thing that that 506 does not include are where positions have been funded but are vacant. It includes the available personnel to manage the adult caseload. It looks at what we have here is again just mapping out on a year-by-year basis recruitment of about 80 attorney FTEs every six years.

Scott Simpson: Every year. Over a six-year period.

Jessie Lenhardt: Every year. Exactly. Thank you. Yeah. Wow, only 80 people. Done.

Scott Simpson: Yeah.

Jessie Lenhardt: Okay. This really is the baseline, right. We're just looking at the simplest form of calculating what it would take to reduce the deficiency over six years. Using that again to inform then the budget calculations, we did a couple of things. Number one, similar to what we did looking backwards at caseload trends, we looked at biennial budget increases again since 2017. Every two years the average increase in OPDC's operating budget is about 23%. We apply that to the future by budget years for the forecast period so until 2031. This is why it changed from that 5-year plan to a 6-year plan. Then what we did is averaged the contracted cost for attorneys one, two and three in order to get just kind of an annual cost per attorney FTE. That's where that about \$241,000 per year comes in and so then it's just maths.

It is the number of needed attorneys every two years times that 241 is annual cost to arrive at the baseline budget. In 2031, we're looking at an operating budget of about \$1.3 billion if you exclusively pursue recruitment of adult criminal attorney FTEs. That looks like by 2031, an additional 22% on top of that four-count 23% increase. A couple of things to note here, this is likely in what we heard today, one of the costliest options. When we're kind of looking at resolving and addressing the deficiency, one of the things that we also include in the analysis and have a pretty lengthy section on is what it would look like in the cost impacts of recruiting non-attorney key support personnel. We know that there are a number of individuals that are an essential part of having a really resilient and integrated case support team. What that looks like is also provided in the report.

Then what we look at, right, we have the baseline here and so then we looked at everything else. All of the other pieces that can go into and our factors to consider when understanding the deficiency over a 6-year period. These are the things that are so variable that they were not included in a plan because a lot of it is able to be influenced by OPDC but isn't able to be determined by OPDC. All of those, we broke them out into two buckets. There's a people and budget strategy and then a policy strategy. At a really high level, that people intervention really looks at all of the other folks that are not attorneys that are really critical to the key support team and could be deployed really thoughtfully to reduce the total attorney hours need every year.

Working again with our partners and our colleagues in this, Malia, K.O. went through each case task by type and did the evaluation of what could be transitioned to non-attorney case support personnel. Those who that work could be transitioned to you'll see on the right. So, paralegals, investigators, mitigation specialists, social workers. What we found is across case types and then depending on the outcome, an average of between 18 to 22 percent of total case hours could be reduced from the attorney FTE need. Now, it's important to note that the hours of what's shifted off of attorneys and what could be transitioned onto key support personnel is not always a one-to-one. And then the number, depending on the level of experience and the competencies of individuals in that role, they may be able to take on more or less. This was the most kind of conservative baseline estimate in order to get some numbers here that could be adjusted again depending on level of experience and competencies that folks are contributing.

Rob Harris: Do you have that data available??

Jessie Lenhardt: Say that again.

Rob Harris: Do you have the data available, the information they used to come up with the 18 to 23 percent?

Jessie Lenhardt: Yeah. In an appendix. We have really another list at the end of exactly the case task, the original assigned Delphi hours and then the percent that could be reduced or transitioned to non-case support personnel. Great question. So, then this is a very high-level overview because we know there's going to be a lot of discussion about the report. So, just an overview of those policy interventions. Number one, really looking at decriminalization. This looks at decriminalizing nonviolent offenses or crimes that have no victim. It's an emerging nationwide trend that thinking about if this could be implemented in Oregon would reduce total attorney FTE need by about 198 FTE annually. Then shifting then into sentencing reform, this focus on repealing or reforming parts of Measure 11 and doing an evaluation of that impact on attorney FTE needs.

Then we also looked at 2024 legislative session outcomes. Lots of policies were passed as about eight of them were passed in this most recent legislative session. Most significant as noted is Bill 4002. There was an analysis that was done on that about the impact to attorney FTE need that was provided by OPDC. That is included in kind of that aggregate analysis but for the other ones, that is an analysis that is yet to be included kind of in thinking about the impact to total attorney need moving forward into the next six years. All together, we just have again, an aggregate analysis of what this could look like. Knowing that not all of these are realizable by OPDC exclusively is going to take input from a lot of different folks throughout the process and it's not something that's going to happen overnight.

Together, we kind of go through those people and policy intervention. Number one, decriminalization of nonviolent or nonvictim low-level misdemeanors could result in a reduction of about 198 attorney FTE needs. That cost impact is calculated just by doing that attorney FTE need times that average cost per year so at 241,000. That could result in a reduction of about \$ 47.8 million. The analysis and House Bill 4002 at this point looks like about a 39 FTE increase total cost impact. This is how you can tell it wasn't done by AI. We're missing a comma....of about \$9.4 million. There's seven other bills that were passed as a result of the 2024 session unknown at this point but didn't want to skip it in further analysis. So, included it as a line item here. Then the impact of repealing or reforming parts of Measure 11, that analysis right now looks like about a 52 FTE decrease and about a 12.5 million-dollar decrease annually.

Case support personnel is where it gets more interesting. We looked at kind of the total case hours annually. We did an average reduction of about 18% of that. Again, kind of recalling that an average between 18 and 22 percent of case hours could be shifted to case support personnel. That first layer of analysis is a reduction of about 192 attorney FTE needs. The cost associated with that actually takes into consideration hiring and recruiting 192 non-attorney FTEs. An interesting part of this analysis and what OPDC is actually working on right now is getting updated market information for each of those case support rules. Right now what we have available in the data is kind of this average annual investigator cost of about 75k. That was used again in order to calculate just an average additional cost. We take out the 192 attorney FTEs minus that and then add back the cost of 192 non-attorney case support personnel. The total impact of that is a reduction of almost \$32 million annually.

Bob Selander: Just to verify again, you're using current 75,000 for investigators. So, if we were to look at a higher wage for investigators, this would have to be adjusted.

[Crosstalk 00:36:45]

Jessie Lenhardt: Exactly. Yeah. And then could be adjusted. We know that investigators and paralegal and mitigation specialists aren't or shouldn't be paid the same. Then once that data is put together, it can get added into a more robust analysis. Yeah, great question.

Rob Harris: On this slide, is the 192 a subtraction of attorneys or an addition of staff?

Jessie Lenhardt: That's a great question. It's exclusively the subtraction of attorneys. Yeah. That whole column exclusively looks at annual attorney FTE impact.

Malia Brink: But Jessie, the money does, the subtraction of the money accounts for the addition of staff, right? That 31 is inclusive of what it would cost to hire those support staff admittedly on the average.

Jessie Lenhardt: Yes. Correct.

Speaker: Madam chair. I'm not sure what the protocol was on ordinary members on asking and engaging in questions and stuff. Is it...?

[Crosstalk 00:37:39]

Jennifer Nash: I think it's fine. Just go ahead and ask a question.

Speaker: If I could just ask to go back to the one that the impact of repealing Measure 11. Can you tell me what that meant or what was the configuration of that was that like going to presumptive sentencing?

Jessie Lenhardt: Yeah. I'm actually going to pass that question over to my colleague Malia Brink. Malia, take it away.

Malia Brink: Sure. Thank you for the question. We spoke with OPDC about what the impact would be of repealing Measure 11 on certain crimes mostly those in the second degree that if they were not Measure 11 cases where Measure 11 sentencing was possible would likely drop down from being high felony cases which have roughly an hour's value of about 150 hours per case to being mid-level felony cases of an hour's value of 50 hours per case. If you weren't trying to fight Measure 11, maybe use the Escape Valve provision in those cases, these are the cases where those are most commonly used. If that wasn't an issue, there would be a lot of attorney time savings. It's not repealing all of Measure 11. We looked at it specifically with regard to some of the lesser and crimes included in Measure 11 to get this estimate. That estimate is in turn based on like that being the route and any switch in kind of which crimes would be removed would have an impact on that but that's the basic of what we did.

Speaker: All right. Thank you very much.

Jessie Lenhardt: That analysis if you're looking in the report is table 12. So, if you like to Ctrl F, Table 12 will be able to get there. Great. Then pulling all of these pieces together that first kind of the second line from the bottom. We have a revised need thinking about what attorney FTE need would be in 2031 if say for example all of these pieces were adopted or put into place. We go from, if you recall that original need all the way at the top of 986 all the way down to 583. The impact of that is about 82.8, 83 million in savings in 2031. The piece that I want to mention is that we really focused on OPDC's operating budget in this table but it's important to think of this also in the larger context of the impact to the Oregon's overall criminal justice system. There's lots of downstream impacts that are included in the analysis. That is that second bullet really looking at kind of the impact of decriminalization on the prison system specifically in that \$215 million savings.

Scott Simpson: That accounts for that second line item decriminalization of nonviolent and low-level misdemeanors as well as the impact of repealing Measure 11 sentencing guidelines and just having those sentencing guidelines be normal rather than a Measure 11.

Bob Selander: Presumptive.

Scott Simpson: Presumptive, yeah. The savings significant on the criminal justice system beyond just what we have here calculated for the public defense.

Jennifer Nash: Great.

Bob Selander: Have you considered the impact on criminalizing some of these things? We just took drugs, victimless crimes, went through this experiment in Oregon and that didn't work and now we have it changed. I don't remember what the number of attorneys you said were necessary to increase those coming back into the system but there's an increase but let me just take one. Driving while revoked, suspended or revoked. I understood the history of that was we wanted people insured driving their motor vehicles so if they were in an accident with you, you didn't have to pay for it. About the only weight we had was to make a crime, try and compel people to do it. Have you considered the impact what that's going to have on the system whether it's the civil part of the system. That gets it out of the criminal part but it certainly doesn't take it out of the courts or individually, or the impact of decriminalizing things like trespass in third degree which seems like a wise thing to decriminalize unless the person's in front of your store and you can't get any remedy on the trespass?

I understand decriminalization is nice to say we won't have spent money on this anymore. We could say the whole criminal justice system if we decriminalized everything, obviously that's ridiculous but every act has a counter effect. What the counter effects I predict on this is what we saw with the drugs. You save money for six years and then suddenly we're going to have to come back and revisit it.

Jennifer Parrish Taylor: Yeah. So I'd like to clarify that Measure 11 actually was not implemented correctly. That's why it failed. It didn't have the infrastructure needed to actually support Measure 11. I think it's a mischaracterization to say that the decriminalization of drugs was an experiment that just didn't work. I'd like folks to actually do some research, look at the facts because I think what's been characterized is untrue and I would like to not propagate that narrative.

Bob Selander: I'm going to restate what I said. It was an experiment that didn't work. It didn't work in part because it was not properly implemented. So, I agree with everything you're saying but the way..

Jennifer Parrish Taylor: You didn't say that in your statement initially.

Jennifer Nash: This is part of what we talked about yesterday. He may have meant something different so now we're having this discussion about how we're clarifying what we really mean. This is, I think, very healthy.

Bob Selander: I understand that. That was my comment to them on things like driving while impaired or criminal trespass. It makes sense to decriminalize them only if you realize there's an impact and you're prepared somehow to handle that impact, otherwise is going to be a cost to the system. May not be to the criminal justice system but it's to another system.

Jennifer Parrish Taylor: Yeah. I mean, I think the key is that we have to be prepared and you've seen that our state does not do that.

Jennifer Nash: Well, I think just a I think the broader view is the idea, and please chime in and correct me if I'm wrong, the idea of this study is to show what it costs so we can, the legislature and the and the funding entities can make a value decision based on the data of what it costs for the different positions that they take. We know that if you decriminalize, it will save x. If you don't and you want to continue down this path, this is how much it's going to cost you. I think that's really the purpose of the study and then from that comes the value judgment about what decisions get made but this is the data of how much it's going to cost. There are of course lots of collateral consequences. I mean, you're absolutely right. There quality of life issues and the state has shown its, I would say, unwillingness I'll just say, to participate in large scale or even small-scale decriminalization as a long-term strategy.

Alton Harvey Jr: If I may, Madame Chair, to Robert and Jennifer's point and also to the point that was yesterday and some of the ideas we were talking about thinking outside the box, I remember when I was in the system treatment was a viable option along with public defense. I mean, there was a lot of opportunity for people like myself to be engaged in the treatment program which is where Measure 11 was not prepared when they rolled it out, the implementation of treatment was not quote unquote "set up the way it should have been." That's my opinion. Thinking outside the box, I think that OPDC, the Department of Justice, Department of Community Justice, all of these pieces, we need to collaborate with a treatment model, if you will. That's some of the information that I'm not seeing in any of these proposals, any of these studies, anything that's, you know, we're asking ask people for help or I'm not seeing that, which is a viable option to a lot of the things that we're dealing with right now.

Jessie Lenhardt: Yeah. Malia has a hand up and then I saw Eric raise a hand also.

Malia Brink: Thank you. I wanted to just point out two things. One, I agree with a lot of what's been said and specifically the statement that this is about really being able to demonstrate and quantify for the legislature the impact of choices. They are choices. You can make either of these, right. You could undo the 39. Yes, that has a lot of downstream consequences and things that would need to be done to support it. The other piece I wanted to mention about the decriminalization is that if you actually look at the detail of that analysis even where we were talking about pulling these out and decriminalizing, we left a little bit of flex space assuming that roughly, and Jessie, you'll have to remind me either 10 or 20% of those cases would still go forward for those more kind of extreme cases. We didn't assume that all of those cases would disappear and I just wanted to note that.

Jessie Lenhardt: Yeah, Malia, you're correct. It's 20%.

Alton Harvey Jr: I just feel like that's not enough. Decriminalization just didn't work, to me. I mean, there has to be consequence in order for... I'm talking about... We're talking about the drug now. We're not talking about any...and some other crimes as well. I mean, no consequence decriminalization to me, it just isn't working.

Sen. Floyd Prozanski: Why do we have to rely on a system that seems to have failed on the sense of punishment as compared to going to [Inaudible 00:48:48] and energizing people to make changes in their life and positive to conform to community standards?

Sen. Floyd Prozanski: Well, I guess, Senator, I'm just old school, you know what I'm saying. When I spent all that time going through the system, ultimately it was consequence that motivated change. Now, the public defense system was not in dire straights. It was overworked but it was nowhere stretched like it is now. I get that. But I feel

like if there's another component to add along with what we're all talking about and being such a strong advocate for the treatment community, I think that would be a huge, huge lift for everyone, for everything involved.

Jennifer Nash: I feel like if we added in the kind of case support services like social workers, that public defense lawyers and the system would be much better equipped to be able to facilitate getting clients into those kind of services in the criminal justice system. That, I think is really part of what the study speaks to is that we have to robustly invest in those kinds of services and not just be [Inaudible 00:50:07], which is top heavy. Expecting lawyers to do things that we're not trained to do and we're not good at and we don't have the time to do. I think that's the real... And that specifically to your point, that's the real takeaway for me from this study, is we need to invest in those other parts of the system.

Susan Mandiberg: I'd also make two comments if that's okay. I think sometimes it's hard to distinguish between incentives and consequences. Measure 110 had incentives/consequences if it were done the way it was written, I believe, to people who were caught in possession of the small amounts of drugs for personal use were given the option of going into a treatment situation or paying a ticket, right, a fine. There was that consequence, whatever that fine would be or an incentive. Maybe some people didn't think it was a big enough consequence. But the treatment system was never implemented by the agency that was tasked with implementing it. So, the alternative didn't really exist. My understanding, and correct me if I'm wrong, is because the system never really got set up, police became unwilling to deal with people who had small amounts of drugs because that choice did not in reality exist.

So, because police just stopped dealing with it, the situation got out of hand leading to at least part of the reason for the public outcry against what was going on. It wasn't that there were no consequences. It was that the system itself was never implemented. The other thing I'd like to point out, and this relates to some of the stuff we're going to talk about later, when we're talking about hiring social workers to help put all this together. I noticed that there were some requirements listed in the pay provisions that required the social workers or whoever to have college degrees or master's degrees or all kinds of things. I believe that a lot of intervention programs have had extremely high rates of success using in a social work type position, people with lived experiences as add-ins. Yeah. These mentors or navigators, whatever you want to call them, with the lived experience, normally don't have college degrees but they have even something more valuable in that they know...

Alton Harvey Jr.: No, I'm not interrupting. I'm just passionate.

Laughter [Crosstalk 00:53:21]

Susan Mandiberg: But they know how to deal with people who are living through that situation because they've lived through it successfully. I don't know whether those people cost more or less. I think they should cost the same.

[Crosstalk 00:53:37]

Susan Mandiberg: I think they should be paid the same as people with college degrees personally but when we're looking at that if we're going to be thinking outside of the normal elitist sort of box that deals with these things, I think that we have to think that way. All of that may not be directly on point with the statistics but I think it's something that we have to consider as we're dealing with all this.

Commissioner: [Inaudible 00:54:09].

Jennifer Nash: Thank you.

Jennifer Parrish Taylor: I mean, I know that our roles here are to focus specifically on public defense but I think we're missing an opportunity when we don't look at the whole of the ecosystem and make sure the ecosystem is healthy. So, how do we think through, to your points, what are the gaps I think especially there needs to be an analysis of what are the culture specific and other community groups that are doing this work and doing it well and quite frankly doing it cheaper than the states. To say, okay, let's leverage these, actually invest in them, have them work with us, have them work with the court systems so that folks know their options. Though I hear you when you say jail got you clean but that's not...

Alton Harvey Jr.: That's not the case for everybody.

Jennifer Parrish Taylor: Yeah. That's not the case for everyone. How do we have a diversified approach that punishment isn't always need it for everyone and that they find a lane that fits for them that is rooted in community, that they're supportive in a holistic way. I think that means we need to have a conversation around what are the upstream solutions that we can think of as well as our current situation and how do we mitigate or shrink our system?

Jennifer Nash: Like the ability to get funding for organizations like Alton's to work with our clients absolutely to be able to provide those services.

Jennifer Parrish Taylor: Absolutely.

[Crosstalk 00:55:42]

Jennifer Parrish Taylor: But folks have to know about the program. That's the problem is that a lot of the folks who making the decisions, quite frankly the life or death situations don't necessarily know that there are other alternatives available to them.

Alton Harvey Jr.: I guess my point is I'm not bucking against anything as much as I am these ideas that Jennifer and Susan and everyone's talking about are never included in the studies that are supposed to be saving us money and creating a space where we're getting more attorneys, we're looking at the problem. None of those things are ever ideas that are involved in these types of things. That's the frustration...

[Crosstalk 00:56:24]

Jennifer Parrish Taylor: Alton, we're not the decision makers.

Alton Harvey Jr.: No, I get it. I know that.

Jennifer Parrish Taylor: I mean, fundamentally, the folks with the purse strings, they don't look like us.

Alton Harvey Jr.: Yeah, well.

Jessie Lenhardt: I think that's a great point.

Rob Harris: Oh, actually, I was going to bring it back to you guys. So, I'll...

Jennifer Nash: I'm trying to think, Bob, did you have something?

Rob Harris: Well, I think it's great. I think interestingly, we have a variety of views on this and a variety of input from the experts in different areas here, lived experience and educational experience. I think it's important to keep this information in the report because, yes, we don't get to decide there's a decriminalization going on but by pointing out to the decision-makers, to Jennifer's point, what the cost is and what the alternative use of these dollars is in black and white, then the representatives can take it back to the legislature who do make the decisions and say this is a choice we need to make.

We need to listen to the experts as well. What's the best use of this \$40 million for the community as a whole? This is very important information to have in this even though we don't have the solutions or the exact details of how this would work. I appreciate the information. It's not our job to tell them how to put people in jail, by the way. It's our job to say this is what it cost. Cut the check, if you like. If this is what you want to do, you got to cut the check. I appreciate that. I think we should continue this round table discussion we've had regarding the treatment. I'll let you guys get on with presentation.

Jennifer Nash: Actually, before I do that, Bob, did you have something that you wanted to say?

Bob Selander: No. I'll wait.

Jennifer Nash: Okay, all right. Go ahead.

Jessie Lenhardt: I think that's a great segue then into thinking about this is a first step. So, this is not the plan and it's not the final solution. It's a starting point. We have this first layer of data, this first layer of information and the train is already left the station on a couple of other important things. Number one, the agency's strategic plan. When we think about the ability to effectively develop community partnerships, what that looks like and the funding required, that could be something that gets integrated into a broader strategic plan, right. It's not just looking at public defenders but it's looking at a little bit of everything else including other kind of training opportunities and whatnot and all those pieces that we know feed into the broader impacts to the criminal justice system.

This is going to get integrated into ultimately, the strategic plan and then get built out in collaboration with what steps are actually going to be taken to kind of continue down this path. As you have seen, there are a lot of different options about what that could look like. When we start integrating all of these [Distorted audio 00:59:08]. So, the six-year plan, building out the strategic plan, then we also have the transition plan really diving into the agency's mission, vision, values, the purpose, the feedback that we're gathering from you all is part of that process, we can to start to see all these pieces come together. When we start about getting through this really robust planning phase and then building out the what's next and those action steps. What is it going to cost? Thinking about putting some of those pieces in black and white so then we can extrapolate from there. This also is a great place to start when we're thinking about aligning people, processes and systems and then reporting on progress over time.

Bob Selander: Can I ask a question?

Jennifer Nash: Yeah.

Bob Selander: We have I think 26 judicial districts in Oregon. Most of them are out in the hinterlands although we always think of it in terms of the population centers in the ballot. Putting the social workers and the investigators out in Hartley County and some of the other counties, is the expense the same? Is the anticipation we're going to be sending them from the valley out there?

Jessie Lenhardt: That's part of and this kind of gets to some work that's already underway with OPDC is an hourly rate study where we're looking at rates for non-attorney FTEs.

What we're able to do with that data is actually make some adjustments based off of location.

Jennifer Nash: I have... I'm a math person so here we go.

Jessie Lenhardt: Yeah. Take it away.

Jennifer Nash: This is part of one of my questions is you have the staffing ratios for these various different support staff types and that doesn't really support our public defense model. The problem is that when you have non-profit public defenders and when you have statewide public defender offices, sure. One-to-four for legal assistance is fine. But when you have hourly lawyers, even if you had an hourly lawyer that did nothing but public defense work, that staff ratio is going to be one-to-one not one-to-four. You're not going to have four FTE lawyers in four separate places with one legal assistant. How is it that you are going to account for that because that will increase the costs under this model significantly for support staff? I'm just using support staff like legal assistant, paralegal as an example but it's true for investigators and other support staff too. So, that's my first question.

Jessie Lenhardt: Yeah. That's a really great question and especially one that is going to be likely to change with kind of this transition plan in 2027. More attorneys are coming inhouse. The contract base is going to really expand. It's part of the strategy that's just an open-ended question. What does it look like in order to either check and see and support some of those other agencies in their kind of recruitment of non-attorney FTE? What does it look like for our own attorney FTEs? It's part of the strategy that at this point when we start looking at actually executing and growing the workforce, okay, what pieces need to get involved? But you're right, and the standards are a place to start. That's just one of the considerations about when the boots hit the pavement being able to integrate that into the strategy and thinking about, okay, how are we engaging people across these different places especially when you have folks in more rural areas and it's not necessarily one-to-four opportunity.

Scott Simpson: I think Malia wanted to wade in on this as well. Go ahead.

Malia Brink: Thank you. I just wanted to say that there are also models from around the country that provide this sort of support to court appointed counsel systems which are very similar in the sense that people are not always taking on full-time cases. They're most often independent contractors, right. They're taking on a certain number of cases. Often, the way that works is the investigator or social workers work the same way. What's guaranteed is that when you take a certain type of case, you're entitled to a certain number of hours of resources from those contractors. You often have one that you like to pair with who may be in your community but may also be serving other lawyers in that sort of same capacity.

There are different models for doing this even in rural spaces with not a full-time public defense office model. I thought that that sort of went to what Jessie was saying about wanting to do some hourly based time studies on what this could look like not as a full-time employed model.

Jennifer Nash: Well, I think that's true for like social workers, investigators but when you think about support staff like your day-to-day support staff, I don't think that model works as well because you have to have someone there answering the phones, you have to have someone meeting the clients. It really is a, when you talk about an hourly panel situation, and let's assume that the person only did public defense because that makes it easier. Their practice is 100% public defense. It's going to be a one-to-one ratio. You're not going to have a 0.25, somebody there 10 hours a week while you practice full-time. I think that for that model for that particular staff person, I think the numbers are problematic for the hourly panel portion of the public defense model.

Malia Brink: Agreed. I see your point entirely. Sometimes those people do double duty. They're doing some administrative work as well as some client navigating and paralegal work. So, oftentimes they become multifunctional but I agree with your point.

Jasmine Wright: I guess my other my question is so you preface this conversation with the fact that this analysis is only on adult criminal. We have hundreds and hundreds, maybe a thousand attorneys in Oregon that do not do adult criminal work. Is the idea that you believe that after you're done with this analysis that you can essentially extrapolate a solution or you believe that that you know juvenile and dependency work are so closely aligned that you can that you essentially can come up with a solution that will essentially make them close enough or that you believe that that the adult criminal analysis will work for them?

Jessie Lenhardt: Yeah, that's exactly it. Applying some of the same tenant assumptions in the model that we went through to build this out, think about applying that as a starter for the juvenile delinquency cases and then making those adjustments again based on that unique case type. But folks from OPDC, or Malia, please feel free to wait in as well.

Jasmine Wright: Because I would suggest that the differences in the practices are significant.

Scott Simpson: They are significant. Yeah.

Jasmine Wright: I do not believe that... I think that you need to account for the significant differences.

Scott Simpson: One of the challenges which is... Yeah, I'll say right when we embarked on this process, in Oregon, we have delinquency and dependency. We didn't have the

same kind of data, I would say, as readily available to do the analysis on that but the same tendencies would... You could apply the same principles of this study to delinquency and dependency. Your outcomes are going to be different but you could use the same framework. We just didn't have the time or the data, the outset to be able to do that. But we do recognize that there are drastic differences including runtime of how long the cases are in the system especially for dependants. Those take, my understanding is that some can be quite a bit longer than delinquency.

Jasmine Wright: They're functionally completely different animals. Processes are completely different. I think comparing a criminal justice system with the juvenile dependency system are comparing two entirely different animals that almost have no comparisons at all.

Jennifer Nash: I think where that comes the next iteration of this is to take the hourly data that we have and the FTE data that we have and then pair it with the Rand Study for workload case load and be able to develop appropriate workload models because the dependency cases in particular as we know from the PCR program really lend themselves to a workload model much more so even than adult criminal cases. That's I think really where this data can help when you pair it with the RAND Study to be able to come up with a really good model for dependency. I think is that basic...?

Scott Simpson: Yeah.

Jennifer Nash: Okay. I have another math question and it's kind of a bigger one actually. It's the assumption for the 2080 hours, which I know you knew somebody was going ask about. The problem as you know, and I'm just going to lay it out for the record, with 2080 hours is that lawyers don't work 2080 hours. There's 10 state holidays and we don't want people working through state holidays. There's, you know, if you give somebody gener...or not generously, two weeks vacation and also we're required to do 15 hours of CLE work per year, that brings, if you're just the absolute bare minimum, that brings the number of available hours to 1904. The DOJ uses 1,550 for their hourly model. My math is that somewhere the deficiency brings us somewhere between 663 to 930 lawyers. That's my back of the napkin sort of... Well, actually, I used your little chart and just filled it in.

That's my numbers, which is significantly more and would really impact the budget if we just did. What I'm wondering based on that and the way these documents take on a life of their own, if there could be an amendment to the report that includes the math for different hourly based on those numbers. Based on well, if you just gave people two weeks and the holidays and this is what it would be. Because I think again, we're using this to inform the legislature about what the cost would be. I think to use 2080 is not... That's not a number that's

really I think supported. But I'm curious what other commissioners think about that too. This is a big switch.

Rob Harris: Well, you're staring at me, so.

Jennifer Nash: Oh, yeah.

Commissioner: You're on.

Rob Harris: And I and I did have a conversation with Jessie and Scot last night. We discussed this as well. I'm in agreement with you. I understand that since lawyers, defense lawyers have not kept hourly time except, other than PCRCP people, there's not a ton of data about this specific but there is a ton of data about what lawyers do and how they bill and billing process. Even in the federal system, you look at federal criminal law, you could look at that system as well and see the billing manual. You'd look at the billing manual. You'd look and see what the standards are, you'd look at see what the big steel law firms are requiring of their associates. Look at the attorney general's office. I sort of settled at 1,550 as we discussed based upon if we're talking about parity. That's what the existing attorney general's expectations, 1,550. I'm assuming that requires equivalent type of vacation, time off, holidays, same as DA. That seems to be parity.

I ran a law firm for decades and had many associates and we did hourly billing. I was thrilled to get 1,400 hours a year bill out of them because during the day... Now, we didn't work in the... We're not big steel people, you know, but they have a life. But you get two 10-minute breaks, take the 10-minute breaks every day out of your time. I mean, you have to talk to your staff about directions that you cannot bill. I can't bill OPDC for — chatted with my receptionist about her dog who was sick for five minutes to make sure we got good work product. I mean, I can't bill... I'm in the office more than 2,080 but we're not... This analysis isn't about what's in your paycheck or your union contract. It's about hours available to bill because that's what the Delphi study measured. If you're trying to calculate a number of attorneys needed based upon the Delphi standard of timekeeping, you have to use a reasonable hourly billing number.

You can't say how many oranges do we need? Well, we multiply these oranges by this oranges and we get that many oranges. That's fine. You can't say we're multiplying these apples by these oranges and getting these oranges, right. So, using the same measurement of time which is what we're measuring here, 1,550 is the number. I'm pretty firm about that one. My opinion. You guys do whatever you want. But I think 1,550 is supportable by historical facts, by the Oregon State Bar, by the attorney general's office and by common sense and by the expertise that those of us here have at this table. I think when you say it's 2080, that might

satisfy people who are used to looking at a W2 about what their wages is but it but it doesn't create reflect the actual facts in reality.

Scott Simpson: Great points. Malia, are you online? I'm going to have Malia talk about this.

Malia Brink: Absolutely. I mean, first of all, and I want to say that I agree with it, right, that 2,080 is massively, massively conservative. It's very hard to step away from 2,080 without some evidence as to exactly what you're stepping away with. I think a lot of attorneys would also say a 40-hour work week is not realistic. If you go to a 50-hour work week and then subtract, you end up somewhere actually close to 2,080 when you take into account just those basics that... I'm sorry, I can't see commissioner names, but the holidays, the state holidays, the vacation time, just those core basics. I will say that it is absolutely correct. If you look at judicial workload studies which use the same factor, they end up somewhere typically between 1,200 and 1,700 in terms of hours available for casework. All of it is legitimate. You pointed out that often times that that would increase the budget. I think it is fine to do a side by-side analysis that shows what happens if you actually reduce the time available to something that is more realistic even in the absence of the specific data that lets you reduce it specifically for Oregon attorneys because we don't know how much time they're spending for example in cars traveling, which would go into that factor.

Jasmine Wright: And for whatever it's worth, I worked in big law, medium law, for DOJ. 1,550 is a very reasonable number I mean for when I worked big law.

Malia Brink: Right. I mean, I will say that part of this was to echo big law firms which at the time that the first study was done were closer to 1,900, right. This was originally created in Missouri where there was a prevailing sense that part of what was happening was that public defenders were lazy. 2,080 was adopted to insulate that from criticism. It was close to what was in very big law admittedly, kind of the standard norm. Again, I will also say, and this is slightly different, that when you are trying to input standards on a timeline basis, that that is actually the number you move. You never want to play with the weights, the case weights. What you can do is phase in the amount of time available for case work.

What this often looks like when we use what's often adopted as a comparative weighted case load study where you assign for example low felony the weight of one and then everything gets compared to that. So, if a low felony is a one, maybe your homicide is 8.7 and then you're taking it not out of hours available but you've reduced it to like the number of case availability that somebody has which is like created in the system. If you're trying to phase this in and get down to the time and hire staff to do that, you move that number, the cases available for everyone to work with and you decrease that over time.

You don't mess with those comparative case weights. You don't say, well, in year one, we're going to call a murder a 5 and year seven, we'll finally get to 8.7. You move that number. Because this is just being introduced, starting with that conservative number makes sense. But I do agree that seeing where you're going and showing the comparative to something that is far more reasonable and saying we're using 2,080 right now because of all of these factors. It's conservative. We're just introducing this. We don't have the data.

But saying for example if, 1,550 is the comparison for the attorney general's office which is what I think I heard, this is what it would look like if we got this down to a more reasonable number. All of that makes sense to me. The last thing I will say is that the Washington State Bar just adopted the National Public Defense workload standards, like a measure to try and put those in place over kind of a similar four-year frame. They adopted 1,650 as their kind of standard. Whatever you, you know, that math is fairly easy to show the impact on. We can do that comparison but this is often how you phase this in.

Susan Mandiberg: I'd like to make sure I really... I'm not a math person so I'd like to make sure I really understand what we're talking about here. If we're talking about using this study to lobby with or discuss with the legislature how to fund lawyer slots, right. We use the higher number 2,860 versus say 1,500. If we use the 2,080, the legislature will fund newer positions. If we use the 1,500, the legislature will fund more positions. So, I got that right. All right. Let's say we go to the legislature with the 28...26 whatever it is, the higher number, and that's what they fund. We will still be requiring the lawyers of the system to work more hours, nights and weekends. If our goal is to encourage more people to want to become career public defenders, we won't do that by funding a system that makes them work nights and weekends and not have two-week vacations. So, why we would use a study based on the higher number when our goal is to create a situation where lawyers want to work here, I don't understand.

Alton Harvey Jr.: Preach.

Jennifer Parrish Taylor: You're making too much sense.

Jasmine Wright: Here's the thing is that from my perspective is that that 2,000 number. I billed 2,200 hours two years in my career and I was working roughly 75 to 80 hours a week when I did that. That is not a sustainable work model. It is not, not, not a sustainable work model. I certainly do not want any member of the legislature believing that attorneys can work 75-80 hours a week.

Jennifer Nash: I think that's what our role is, right, our role as the commission is to set that number. We have the data. We can do math based on the 2,080. We can extrapolate it down to the number of hours and number of FTE that we believe is

appropriate. The legislature in Senate Bill 337 and even before that, has required us to transition to a workload model and we know how to do that now. It's math. We have the formula. We just have to come up with the plan and we have to come up with the policy about the numbers we're going to use to do that...

[Crosstalk 01:20:46]

Susan Mandiberg: As you say, as if this document takes on a life of its own, I don't want it to have numbers that we don't want.

Jennifer Nash: Right, right. That's why I think it would be helpful if we had another appendix that had the — if you chose this, if you chose that, what those numbers would be. 1,650 seems. Since Washington did that, like a good number.

Jennifer Parrish Taylor: Well, and also it should be reflective of the values we say we hold as a commission. Just because we have this larger number doesn't mean that the number we have to lead with. Quite frankly, we should not be doing that. I think it's going to that be... The onus is going to be on this commission to be far more active in their advocacy to the legislature around why the number should be the number that it is.

Bob Selander: Madame, Chair.

Jennifer Nash: Yeah.

Bob Selander: Along these lines too, I'm not seeing any sort of inclusion of the expense to recruit attorneys in the public defender system. I don't know if that's further on or but I didn't see it when I read through in whether we want to improve that in changes in terms of our student loans, bigger than 5 years or 10 years. So, what sort of policy [Inaudible 01:21:56].

Scott Simpson: Correct. We did not look at the cost of recruitment in this. Didn't have the data and just really that was not something that was considered when we walked through this. We were just looking at a pure need not the cost to actually get them in the [Inaudible 01:22:21]. Doing an appendix, that is very easy. I think that it's something that we can talk with talk with management about and [Inaudible 01:22:37] revise to base the report something along those lines. I think that if we change the numbers and that number 2,080 in the report to something else, I would say I still like the idea of an appendix showing if it's 1,650 in the report, here's, you know, 1,750, 1,600, 1,650, 1,600 just laying out. That way, it's easy for someone else to someone to look at the back and say, okay, well, maybe they disagree that 1,650 is right and say it should be 1,700. Well, there's the numbers right there in the appendix. So, I do very much like that idea. It is easy for us to do because it is just math.

Rob Harris: Well, then, I would suggest or I would prefer the number in the actual body to report 1,650 as number. That's fine because that's going to become the default number. So, whatever you put in there, I would not put 2,080 because I think that is an unrealistic number. I wouldn't put 1,200 either. I think that's unrealistic expectation as well. But I think whatever number you put in the body will be the default.

Jennifer Nash: Yeah. I think that's true. So, do we have some consensus about what number we want to use?

Jasmine Wright: Having recently left DOJ, I agree with Rob. I think the DOJ number needs to... That's what they expect their assistant attorney generals to get and that's what they expect in terms of performance bonuses and expectations.

Jennifer Parrish Taylor: And that's what we're competing against.

Susan Mandiberg: And that's parity if we're going to recruit them.

Jasmine Wright: Right. I don't think we need to compete against the State of Washington. I think we've got our own issues within our own borders. I think we stick with that number from DOJ. I think it's 1,550.

Jennifer Nash: Does anybody disagree with that?

Eric Deitrick: Well, Chair Nash, members of the commission, I want to hear what Jesse and Scott have to say about this. The report is the report but ultimately, the legislative ask is going to be based upon decisions for this commission. I don't want this group to think that this is like going in as the final ask. You all are going to have to, in subsequent months, discuss and approve the policy option packages that go to the legislature on behalf of the agency. I just want to pick.

Susan Mandiberg: But if we come in with advocating for a smaller number and the larger number is what's in the report, it's going to create ammunition for people in the legislature to say you're not being realistic. These experts came in with a report with a higher number. If we have a report with a higher number, we're setting up a situation that's self-defeating when we go in there with a smaller number, I believe.

Bob Selander: I absolutely agree with that. If I was looking on the budget and I would see the report that had this number and the commission said, "Oh, but we want this number," I'd say, "Well, that's really nice, but..."

[Crosstalk 01:25:42]

Jasmine Wright: Yeah, we're going to take the expert and the experts say 2,084.

Jennifer Nash: I sense some hesitancy on the part of the agency. Why don't you talk about risks if you think there are risks with putting a lower number in?

Jessica Kampfe: Oh, we [Inaudible 01:25:59]. We were actually talking about procedure in terms of how the commission could move forward with a lower number and if we wanted to talk with Moss Adams about doing a revised report that could come back in front of the commission in April and have you all have [Inaudible 01:26:18] in April to adopt a revised.

Jennifer Nash: That sounds great. Thank you. It sounds like we have consensus that the number should be 1,550.

Rob Harris: Yeah. But I would like Moss Adams to review that direction or recommendation and make sure that you can substantiate that as a reasonable one based upon our requested criteria, if that makes sense. Because we talk a lot about parity.

[Crosstalk 01:26:44]

Sen. Floyd Prozanski:...just said, I think the referral is based on the comments that have been said today, we're now saying we should be comparing to what DOJ does. I think that's, say we reference as to bringing it back into more reality [Inaudible 01:26:58].

Jennifer Nash: Perfect. Yes. All right. Well, thank you. Do you have questions?

Scott Simpson: Just while we have Malia on online. Malia, do you see any challenges with doing that?

Malia Brink: No, no. I actually think the math is actually fairly simple for doing that. I will say what it's going to do is increase staffing needs just based on the comparison between 2,080 and 1,550. It's going to increase staffing needs and cost roughly 34% across the board. That's fine. It's just that when you're talking about the nature of the ask, that's what it does.

Jennifer Nash: Well, and that's kind of the point. Thank you.

Malia Brink: Understood, understood. Right. I understand what you were saying right which is that you don't want to start with some kind of interim step where you then have to change the analysis on people. I completely get it. I just right now, right, the attorneys in the system in order to just handle the cases that they have even before you get to the non-represented crisis are doing so astoundingly much more than that. They're doing it by cutting the hour side available for cases. That's the

part you really don't want to mess with. The phase-in usually comes on the other side. What I'm hearing is — don't phase us in, show us the reality. That is fine.

Jennifer Nash: Yes. All right, thank you very much, Ms. Brink and thank you very much. Do you have anything else you want to add or okay?

Scott Simpson: We will get to working on it.

Jennifer Nash: Okay. Wonderful.

Scott Simpson: Thank you for thank you for the input and the dialogue because this is helpful and we'll get something revised that you'll look at and you'll say, "Wow, that number's bigger." But it's in line with what we expect.

Jennifer Nash: Thank you. All right. With that, we will adjourn for a 15-minute break and we'll be back at 10:45. Thank you.

[Break 01:28:55 - 01:45:00]

Jennifer Nash: All right. Welcome back after the break to the Oregon Public Defense Commission meeting. The next item on our agenda is an action item regarding retention incentive payment. Kim Freeman and Amy Jackson will be presenting information related to those decisions.

Kim Freeman: Morning, Chair Nash, commissioner members. For the record, I am Kim Freeman, the CAP manager, which is compliance, audit and performance. With me in the room is Amy Jackson our senior policy analyst who will be presenting the information on the 9.9 retention incentive policy proposed today.

Amy Jackson: Good morning, Chair Nash, members of the commission. At the February commission meeting, the agency presented a draft policy to distribute the 9.9 million. That proposed policy allowed for five payments, four of which were tied to early caseload reporting. At that time, the commission requested that OPDC reach out to providers for further communication. On February 13th, the agency held a feedback and listening session. Providers shared that early reporting would cause additional workload as it would require a change in many of their processes. Although providers understand the need for early report reporting, they suggested perhaps a tiered approach to early reporting, perhaps the 15th to the 10th and ultimately landing at the 5th.

The feedback and listening session was absolutely fruitful. It was good to hear from providers the impact that this policy would have on them. The OPDC data and research team along with the program analysts held office hours, January, February in March. There were two meetings each month all of which were

dedicated to caseload reporting to assist the providers with general caseload reporting questions. Any provider that had specific issues where they were handled on an individual basis.

The data and research team also provided additional one-on-one assistance any time providers needed it. On March 7th, OPDC sent out communication to all attorneys and contract administrators letting them know that all caseload reports from July of 2023 through February of 2024 needed to be submitted by March 20th in order to be eligible for the incentive funding. Director Kampfe and OPDC staff met to discuss the feedback information that was received from the feedback and listening session which resulted in the two proposed policies before you today. There are two options, Option A and Option B. There are pros and cons to each of them. Option A allows for two payments, one April 15th 2024 and again, October 15th of 2024.

The caseload report due date remains the same, so the 20th of each month per the contract. The pros to that option are that it allows for two much larger payments to providers. The cons of course are that all of the retention incentive funds are paid in 2024 with no funds available in 2025. Option B allows for five payments. Again, caseload reports would remain on the 20th of the month. Mona, can you go to the next slide? Yes, thank you. The pros are the payments are dispersed in both 2024 and 2025. The cons of course being that it's a higher administrative cost to OPDC to process five payments as opposed to two. I think that's it.

Kim Freeman:

Next slide.

Amy Jackson:

Next slide, Mona, please. The agency recommends that the commission review both proposed options and make a motion to approve one of the two policies presented.

Jennifer Nash:

Thank you. All right. Before we talk about motions let's just discuss these. Does any commissioner have any questions or any input?

Susan Mandiberg:

I have a question. How much greater are the administrative costs under Option B both in terms of money and in terms of staff time?

Jessica Kampfe:

I can answer that question, Commissioner Mandiberg. The administrative costs are significant. They greater under Option B because the payments are based on MAC and that is a number that fluctuates. We would need to recalculate the MAC under each provider for each payment. The amounts of the payments are going to fluctuate too because if we have five distinct buckets of payments, then people are going to get, you know, if they get \$1,000 the first time, the next payment they may get \$900 each because there's more MAC in the system or they might

get \$1,100 each because there's less MAC in the system. So, the more times we do the payment it is actually a pretty significant administrative cost for the agency.

Susan Mandiberg: So other than having funds available in 2025, are there any other advantages to Option B?

Jessica Kampfe: Yes. In the previous time that we got retention incentive funding, the agency tied that funding to caseload reporting. We saw significantly greater compliance with caseload reporting. People were much more likely to get their reporting in on time when there was a payment associated with like reporting in on time. When you have just two payments, there's less of that financial incentive for them.

Susan Mandiberg: Is there a way to let us know... Two things about payments not getting in on time.

Jessica Kampfe: Data reports.

Susan Mandiberg: Reports. I'm sorry. Data reports. Do you know what percentage of providers are delinquent and the other part of it is whether the delinquency is more pronounced for some kinds of providers than for other kinds of providers?

Jessica Kampfe: I would have to refer the question to our data team. Kim Freeman as our CAP manager is the head of the that unit. She may know the answer or she may need to ask staff?

Kim Freeman: Director Kampfe, I would need to ask staff that question.

Susan Mandiberg: For both of my questions?

Jessica Kampfe: I see her nodding her head, yes.

Kim Freeman: Yes, sorry. To be clear, it was a percentage of delinquency and if it was and particular providers?

Susan Mandiberg: Types of providers not providers by name, but.

Kim Freeman: Right.

[Crosstalk 01:53:14]

Susan Mandiberg:...overall and then whether it's more prevalent with some kinds of providers than others. Thank you.

Kim Freeman: Thank you.

Jessica Kampfe: I think [Inaudible 01:53:22] know that the administrative costs are different based on provider types and staffing ratios.

Sen. Floyd Prozanski: Question. MAC [Inaudible 01:53:38] something?

Jessica Kampfe: Thank you, Senator Prozanski. MAC is the maximum attorney caseload. That is the maximum number of cases an attorney would take under contract for a full-time public defense contract. So, somebody that is 100% public defense could take a maximum of 300 weighted misdemeanors. Somebody that is half time public defense could take a maximum of 150 weighted misdemeanors.

Sen. Floyd Prozanski: Thank you.

Jennifer Nash: Does anybody else have any questions or comment?

Commissioner: [Inaudible 01:54:23].

Rob Harris: Couple of maybe a comment and then a question. Well, the comment is this retention I believe was to retain people through a two-year budget cycle. The contract, you have the money in now. We're about eight months through it so the payment is in April. Makes perfectly good sense to me. I'm thinking since people did sign agreements for two years, that to reduce the administrative cost but to more appropriately place that second payment possibly would be a good idea to consider making the second payment in April 2025. Here's why. Number one, that's going to be consistent or at least give a little bit line up a little bit with the next contracting period. So, when people do their responses to the RFPs, it'll encourage people to make the correct decision to resign and keep or maintain their caseload if they know there's going to be... The timing just seems good to me. Having managed a number of providers, consortia providers, I think that they may like to have this split in two for tax purposes.

One in '24, one in 2025 just to even out their tax obligations and their payments. I don't think they would object to delaying the second payment till April. I think there's some benefit to it. I think it actually rewards the retention over a longer period of time not just paying it out in the next five or six months. I think from a strategic, maybe a workload stand or two because then you're only processing it twice not five times. I'm wondering what that would look like or what your response would be to that. My second question is the unclaimed retention bonuses, I'll call them unclaimed or unearned retention. Part of the retention bonuses, is your plan to then take that money and give a supplemental retention bonus to the people who did retain or to have an alternative use or even can you statutorily do that given how the money was funded to the agency? Does it all to

go out as retention bonus? I didn't see that but maybe it's been addressed somewhere else.

Jennifer Nash: It's all part of a retention bonus that was under 337 I think or one of the accompanying bills. It was specifically 9.9 for retention. My guess is you're just going to divide it into whatever the difference too is what MAC there is then, what MAC there is for the second and that's how it gets divided, right.

Jessica Kampfe: The agency, it is all retention money. The agency would not retain that money for a separate purpose. I would defer to Amy and Kim. I know that we had conversation around what would happen to the pool of unclaimed money and how that would be allocated in a later payment but before we get to that, I want to just take up some of Commissioner Harris' other questions. There is not a cost to the agency for moving the second payment from 2024 to 2025. The current contract, the policy for the current contract is that we are doing a reconciliation process quarterly. So, we're doing contract amendments and reconciliations quarterly so that that quarterly reconciliation would happen in March which would align well with an April payment date. There's no downside to the agency of moving the second payment to March. I'm sorry, to April of 2025. And then if Ms. Freeman or Ms. Jackson can speak to the question of what the plan is for unspent funds from the first payment.

Amy Jackson: Director Kampfe and commission members, retention funds that are unspent in April 2024 would roll to April 2025. If we were unable to spend all the funds in 2025, I would need some assistance answering that question from our CFO, Ralph Amador, just because I'm not sure if we do not spend all those funds, if they're reverted back, how we could address that. If I'm understanding the question correctly.

Jennifer Nash: Why would we have unspent funds would you just divide to figure out what the MAC is and what the available money is and divide it and make a payment. Why would there? Mr. Amador is giving a thumbs up.

Amy Jackson: Yes, okay. All right. I just want to make sure I understood. That's what we would do, Chair Nash, is we would do our best to get all of the funds out in that last disbursement payment.

Rob Harris: So, then as I understand it, you're not determining what the retention bonus would be as of today's contracts and then saying it's this much now and this much then. You're actually doing a calculation each time and saying we have this much available, we're going to divide up this way. All the money's gone to the providers.

Jessica Kampfe: That's correct.

Rob Harris: Okay. Thank you.

Jennifer Nash: If the purpose of the money from the legislature is for a retention incentive, it seems like it makes sense to put those two payments in two different years so that we can retain the workforce [Inaudible 01:59:51] legislative purposes.

Bob Selander: I have a question.

Amy Jackson: Yes.

Bob Selander: On the second page of Option A it's the language. If the agency can fill additional positions allocated by the 2024 legislature, OPDC would expect the dollar figure to decrease accordingly. Which says to me that if you can find attorneys and hire them, you can spend the money on now rather than [Inaudible 02:00:20]. Am I reading this incorrectly?

Jessica Kampfe: Let's say right now there's 100 MAC in system and we were dividing the payment out among 100 people and it comes out to a certain amount. Then people add more MAC to the system, they add 50 more MAC to the system. And then we divide the second pool of payment, we're dividing it by 150 instead of dividing it by 100. If you increase the amount of lawyers, the size of the payment for each lawyer will go down. If you decrease the number of lawyers, the size of the payment for the lawyers would go up. That's because we have a fixed amount right we have 9.9 million to spend. If we divide it out by how many MAC there is in the system, then the number that each person gets goes up or down depending on how many total there are in the system.

Bob Selander: Which is my second question. This doesn't necessarily go to attorneys. It can go, as I understand, to overhead or other things.

Jessica Kampfe: With the exception of the state employees, the Oregon Public Defense commission does not employ any public defenders. We contract with contract administrators and we provide them with money. How they choose to disperse that money is not for us to decide. It's up to those entities to decide how they're going to disperse the money. They could choose to give all of the money to attorneys. They could choose to spread the money among all of their staff positions. The agency isn't in the position to dictate that choice because we aren't the employers of that staff positions. The agency isn't in a position to dictate that choice because we aren't the employers of that staff. That's an individual employer decision to make. We used MAC as a tool to calculate how the payment would go out not to decide... How the payment leaves the agency to the entity not to decide how the entity chooses to spend those funds.

Rob Harris: The agency is not giving out signing bonuses right now, correct? They're not giving... If you onboard someone, we'll give you \$10,000. That's not happening, right?

Jessica Kampfe: No. We don't have signing bonuses.

Jennifer Nash: Are there any other questions or comments? Do we have other thoughts about moving the second payment to April 1st 2025? Does anyone else have any thoughts that?

Jennifer Parrish Taylor: I think it's a good idea.

[Crosstalk 02:02:56]

Rob Harris: I would have to give Chair Nash credit for a lot of that because she and I talked a little bit about the timing based upon our experience with directors of consortium. I appreciate the help and input she was able to provide to me on that. Thank you.

Jennifer Nash: Yes, you're welcome. I'm just thinking procedure. It sounds like is there general consensus that there should be two payments instead of four and those payments should be April 1st 2024 and April 1st 2025? Is that kind of...

[Crosstalk 02:03:35]

Sen. Floyd Prozanski: It seems like you can just take Option A at this point.

[Crosstalk 02:03:38]

Jennifer Parrish Taylor: Yes.

Jennifer Nash: That's what I was going to ask.

Jessica Kampfe: I think process-wise somebody would make a motion on Option A and then another commissioner would make a friendly amendment to Option A once the option has been moved forward and then there would be an opportunity for further discussion and then a vote.

Jennifer Nash: All right. That's what I was thinking.

Bob Selander: I'd like to make an motion on Option A.

Jennifer Nash: Perfect. Is there a second?

Commissioner: Seconded.

Jennifer Nash: All right. Are there any discussion or amendments to Option A.

Susan Mandiberg: I move that we amend Option A so that the second payment occurs in 2025.

Jennifer Nash: So, it would be — distribute two payments from 9.9 million general fund for services and supplies.

Susan Mandiberg: One in April 2024 and 1 in April 2025.

Jennifer Nash: April 15th 2024 and April 15th 2025 proportionate with the FTE of the contract excluding administration supervision and any vacancies as of April 1st 2024 and April 1st 2025. Do we have to have a second to the amendment, do we?

Commissioner: Yes.

Jennifer Nash: All right. We've got a second. Fine. Let's do a... Well, we're in person. Do we need to do a roll call vote?

Eric Deitrick: Not necessarily.

Jennifer Nash: All right. Does anyone oppose the amended motion? All right, the motion passes as amended. Thank you. All right, second item. We'll move on to the next item. Action item adopting a new pre-authorized expense policy.

Kim Freeman: Thank you, Chair Nash, commissioners, Director Kampfe. We will be presenting updated policy information on the pre-authorized expense also known as PAE the routine expense and schedule of guideline amounts. As stated in our December meeting, we said we'd be coming back quarterly. I'm going to turn it over to Amy Jackson, our senior policy analyst to walk us through the proposed changes that you have in your packet of information and in the memo received as well.

Amy Jackson: Good morning. On December 14th 2023 the commission approved the pre-authorized expense policy, the routine expense policy and the schedule of guideline amounts. Since that time, the policy team has received both internal and external feedback. Changes reflected in the policies before you today are due to that feedback. However, more work remains to be done and the agency continues to be committed to bringing back all of the policies on a quarterly basis. Over the next 90 days, the agency will be reviewing additional feedback received specifically regarding the 180-day rule interpreters as well as any other feedback received prior to April 4th 2024. The agency intends to have what we're going to call a PAE office office hours on April 9th from 12:00 to 1:00 and April 23rd from 2:00 to 3:00. We will be sending out more information in reference to those office hours with an agenda and how to join the meeting the week of March 26.

All of the proposed changes listed in the policies before you have the new language in front and then bracketed is the old language that was approved in December of 2024. Mona, the next slide please. Here are the changes to the pre-authorized expense policy. Section 1.1, language was added to clarify that PAEs do not transfer from one assigned counsel to the next. Section 2.1 is a correction from approval date to effective date which is what our forms now calculate off of. Section 2.4 was a correction in language. Section 3.1, we added OPD after the title to make it match the schedule of guideline amounts. Section 3.3 we added mileage and/or.

Section 3.17, we changed the title of that portion of the policy regarding missed evaluations or examinations. Section 3.20, we added language. Sorry, language was added — policy changes to allow flat rate providers to bill for travel time. Section 3.24 was a typographical error. It should have said including originally. I managed to make it say excluding. Those were the changes to the PAE policy. Again, if you pull up your materials, you'll see the highlighted language bolded before and the bracketed language is the old language. The agency recommends that the council approve the proposed changes listed above for the pre-authorized expense payment policy.

Bob Selander: Madame Chair, just a comment.

Jennifer Nash: Yes.

Bob Selander: I really appreciate the process, the clarity of the process, the [Inaudible 02:09:44] of people impacted and the ability to respond [Inaudible 02:09:48]. Much appreciated.

Jennifer Nash: Are there other questions or comments?

Susan Mandiberg: Yes. As I mentioned before, I have a problem with Section 3.3.

Jennifer Nash: Why don't we [Inaudible 02:10:07] in that order maybe. It might be easier.

Susan Mandiberg: We can do them in order. I just don't want to get lost.

Jennifer Nash: Right. Well, that's what I mean. So we don't get lost. Maybe we take them... Are there any questions or concerns about the changes to 1.1? I have a question about it. What feedback did you receive from providers about the 180-day expiration of authorizations. We received some public comment about concerns about that. What was the reason for that change and what risks are there in doing that?

Amy Jackson: I'm sorry, Commissioner Nash. What section are you referring to? I heard you say 180 days but then you kind of cut out.

Jennifer Nash: 1.1. The last sentence of...

[Crosstalk 02:10:59]

Amy Jackson: Oh.

Jennifer Nash: Yeah.

Amy Jackson: Where authorizations don't transfer?

Jennifer Nash: The last sentence says that the authorization any PAE that had work performed shall be submitted for payment within 180 days. That's added in there.

Amy Jackson: Yes. That is consistent with the current language in the policy. That is one of the issues that we will be revisiting over the next 90 days, is the 180-day rule. We have had some feedback from people where they're concerned especially with providers that are booking four, five months out. We have changed our PAE intake to allow for exceptions. Again, we will be revisiting the 180-day rule but that language was added just to keep it consistent with what was already adopted in December.

Jennifer Nash: Okay.

Jessica Kampfe: Chair Nash.

Jennifer Nash: Yes.

Jessica Kampfe: If I may. If you look into 1.2, you'll see in the second paragraph, 180 days. I think that's what Ms. Jackson is talking about in terms of the consistency. This is an area where we received a lot of feedback from providers and we know that it's an area that needs work. As I think they said at the outset that this policy is a work in progress. This was a space where we actually need to do a lot more engagement to come up with a good solution. The agency is intending to revisit the 180 days and to look for solutions to this issue that actually work better for people. We're making a commitment that that's not a permanent piece of the policy and that's an area where we know there needs to be more engagement before we bring it back in front of the commission.

Jennifer Nash: I guess I mean, as a practical matter what I don't want, I don't think anyone on the commission wants is for a provider to have done thousands of dollars worth of work and then to submit a report or submit a bill that comes six, you know, seven

months after the authorization and the agency say, "Sorry, we're not going to pay that," because it was for whatever reason after the 180 days if the work was... I mean, if it's two years and they just didn't do their billing, that's one thing. If it's other circumstances and the bill just didn't get submitted because whatever, the evaluation wasn't done in time, whatever, I just don't... I don't want to lose providers because we're not paying them. That's my concern. If you're committing to looking at those on a case-by-case basis, I mean, I'm fine with that until we revisit this but I just don't want to start losing a bunch of providers because we have this policy, if that makes sense.

Jessica Kampfe: It makes sense and as Ms. Jackson noted, there is the ability for people [Inaudible 02:14:05].

Jennifer Nash: Okay. Thank you. Are there any other comments on that before move on? All right, 2.1, the authorization effective date and expiration.

Bob Selander: In the comments, what I heard is providers want a response. In the last paragraph, the first paragraph says the request will be reviewed within five days. You're not talking about a response. Are you accepting there should be a response if personnel are available with a limited period of time?

Jessica Kampfe: Commissioner Selander, I'm not sure where you are in the policy. Could you direct me?

Bob Selander: I'm on Section 2, request for preauthorization. I'm in the first paragraph and I'm in the last sentence which begins on next to the last line of that paragraph.

Jessica Kampfe: I myself don't know the answer to your question. I would see if Ms. Jackson or Ms. Freeman know the answer to that question?

Amy Jackson: I see the sentence that you're looking at Commissioner Selander. I believe it was the intent of the agency at the time that this policy was prepared that we would be reviewing PAE requests within five business days of receipt. I am told that we are significantly further behind than that.

Jennifer Nash: I think that really kind of ties into the 2.1 authorizations expire 180 days from the effective date rather than approval date. If we're having the effective date is the date it's submitted, right, and the approval date is the date it's approved. If we're having, and I know we are because I know we are, a month's delay, we really should not change this policy while we're under such significant delays with... Because automatically you cut a significant time out of the 180 days if the authorization isn't getting approved for six, seven, eight weeks. Maybe we should table that to a different iteration of the policy.

- Jessica Kampfe: Commissioner Nash, are you speaking about 2.1?
- Jennifer Nash: Yeah. What do other people think?
- Susan Mandiberg: What was the reason to for changing it to effective date?
- Amy Jackson: The reason for changing it to the effective date was the form that is generated after the PAE reviewer looks at it and approves it, it calculates the 180 days off of the effective date but perhaps the answer here is to say effective or approval date, whichever is greater.
- Jennifer Nash: Well, approval day would never be greater than the effective date, right? Oh, actually, I suppose if you answer retroactive. Okay. I think that certainly solves the concern about the delay right now. Does anybody else have any thoughts about that? All right. Any comments, questions, concerns about changes in 2.4 or 3.1? Probably not 3.3.
- Susan Mandiberg: Yeah. Obviously this doesn't deal with an amendment currently under consideration but as I mentioned before, I have some problems with not authorizing people who act in the role of case managers or social workers unless they have a bachelor degree or a higher-level degree in social work, human services or closely related field. I think I mentioned before the success that mentors and navigators have had and the area that I know most of all is eviction services where people successfully use folks who are successfully in recovery and have gone through the process and understand all of the ins and outs about how to help someone be successful in recovery. I do not want to exclude the ability of providers to use such people in the roles of case managers or social workers.
- Jennifer Nash: Are you making the suggestion that the agency look at that for bringing it back to us at our next commission meeting?
- Susan Mandiberg: Yes. I'd like to make that suggestion. Obviously people have... There have to be some minimum requirements for people but the agencies that are using mentors and navigators without college degrees have criteria that they use to hire and promote such people. I'm happy to help try to find some of the criteria and I'll make them available.
- Jessica Kampfe: Thank you, Commissioner Mandiberg. I really appreciate those comments. I have sort two suggestions. One, we're revisiting this policy quarterly so this is something that we can look at for the next review. It won't be the April commission meeting, it would be the June commission meeting that you would be seeing this again. We can include that in the list. The other piece is the agency right now is going through a process of looking for qualification standards as we move to a workload model. Currently, we have qualification standards for some

types of vendors but we don't have qualification standards for a lot of other vendor types. As we think about what it takes to build out a workload model and what kind of investments we're going to be asking for in the '25-'27 legislative session to build out a workload model, we need to be able to say what we're purchasing and what those qualifications are. Right now, we are working on being able to bring that to the commission for a conversation about policy option packages this spring. We could include standards, qualification standards for peer mentors and navigators as part of what we bring back to the commission.

Susan Mandiberg: Sounds great.

Jessica Kampfe: Thank you.

Alton Harvey Jr.: Chair Nash, not to belabor the topic but is there a qualification standard set by legislature or by... Like is it just something set?

Jennifer Nash: No. But the agency's working on developing that and there was in the six-year plan as one of the appendices for the support staff types some general qualifications or criteria of what those, at least what the people would do not as much the criteria of who would fill those positions but I think that's helpful. But that's one of the things that the CAP team is going to be working on, correct?

Jessica Kampfe: Yeah. Our trial support and development [Inaudible 02:22:19] working on that.

Jennifer Nash: All right.

Bob Selander: There is criteria to [Inaudible 02:22:25] authority institutional health workers and caseload specialists [Inaudible 02:22:28] support specialists criteria has been established. [Inaudible 02:22:29].

Jennifer Nash: All right. Any concerns, questions about 3.17 or about anything on that page?

Commissioner: [Inaudible 02:22:46].

Jennifer Nash: Okay. Anything about... Well, obviously not about including lodging. I'll entertain a motion to adopt these changes with the change that to paragraph...

Commissioner: 2.1.

Jennifer Nash: Thank you. Effective or approval, whichever is greater. A motion.

Alton Harvey Jr.: So moved.

Jennifer Nash: Second.

Susan Mandiberg: Second.

Jennifer Nash: Anyone opposed? All right, the motion passes. Thank you. Let's move on to amendments to or adoption of routine expense policy.

Amy Jackson: Thank you, Chair Nash, members of the commission. The following sections of the routine expense policy change we're proposing. Changes, we added the word contract before the word attorney an increased out of pocket expenses to a \$100 minimum threshold. Section 1.5 sub (c) clarified that interpreters do also qualify for the travel time. We added three new sections and I apologize for the typographical error on section, the last one. That should be section 1.16. We added appellate transcripts, court ordered psychological examinations and some direction regarding the hourly attorney billings. The agency recommends that the commission approves the proposed changes to the routine expense policy effective April 1.

Jennifer Nash: Are there any questions or comments regarding the suggested changes? I mean, the only comment I have is really about the hourly billings I understand wanting to get them in monthly as opposed to the...no time, no requirements. But maybe not every 30 days hard and fast because, I don't know, sometimes people are on vacation the 30th day or something that. I mean, maybe say maybe monthly instead of, I don't. I'm nitpicking. I'll let somebody else comment.

Rob Harris: I think also that language is not exactly clear because you have the or. And there're like every 30 days or whenever the amount is 130 or more. Well, that's, you know...

[Crosstalk 02:25:33]

Jennifer Nash: Every day.

Rob Harris: I think maybe the language could be tweaked. I think I take your... I think you want monthly billings but you don't want a \$20 bill. You want it to be at least \$130. Is that sort of what you're getting?

Jessica Kampfe: I'll defer to Ms. Jackson.

Amy Jackson: Yes. Correct, Commissioner Harris. That is exactly what we were trying to get to. If I need to reword that, I'm happy to do.

Jessica Kampfe: So, it would be monthly when the amount is 130 or more.

Jennifer Nash: That's perfect.

Rob Harris: I think that sounds right. People have different billing times. Some people bill on the 30, some people bill on the 15th. I think just to be safe on this will be better.

Jennifer Nash: Any other questions or comments? All right I'll entertain a motion to adopt the routine expense policy with the change to 1.16.

Susan Mandiberg: So moved.

Jennifer Nash: Second?

Commissioner: Second.

Jennifer Nash: Anyone opposed? All right, the motion passes. Moving on to the schedule of guideline amounts.

Amy Jackson: Thank you Chair Nash, members of the commission. The schedule of guideline amounts had a couple of changes. The second sentence of the opening paragraph has been stricken. To the transcriptionist section, we added a language that says the rate set by statute. We added records. It was missing from the previous policy. We corrected the meal allowance day trips from 60 miles to 100 miles to match what's everywhere else. Next slide, Mona. The agency recommends that the commission approve the proposed changes listed above in the schedule of guideline amounts effective April 1 2024.

Jennifer Nash: Are there any questions or concerns about the schedule guideline amounts? All right. I'll entertain a motion to adopt the schedule of guideline amounts.

Commissioner: So moved.

Jennifer Nash: Second.

Commissioner: Second.

Jennifer Nash: Anyone opposed? All right, the motion passes. We'll move on to the update regarding the unrepresented persons and temporarily increased program.

Shannon Flowers: There we go. Thank you. Good morning, Chair Nash, members of the commission. I'm Shannon Flowers, the trial support and development manager for Oregon Public Defense Commission. I'll be presenting some information about where we stand in relation to unrepresented persons looking first at numbers. I'll get going on the slides that I've prepared for you all. These are the numbers as of today looking at the Oregon Judicial Department's unrepresented persons or unrepresented individuals dashboard.

This is our go-to source of information about the number of people unrepresented, where they sit in the state, what types of cases we're seeing that happen in. And then we also use this list, we have information that is not publicly available about the specific individuals in their cases. This is what we rely on in making case assignments and trying to prioritize that population. On the right-hand side, you have the numbers from the last update that I provided on February 7th. Today on the left, those are the numbers for today. It's a point in time. I'll walk you through a few more slides that look at sort of where we've been over time but this is as of today. This slide shows you the trend since the beginning of any tracking of the unrepresented persons, those individuals who are entitled to or eligible for a public defender but are without counsel.

The first chart there on the upper left is the number of unrepresented individuals who are in custody. On the right on that top line, out of custody pre-trial. Lower left is out of custody probation violations and then the lower right is all other non-criminal case types. That's civil commitment cases. Let me see. Both juvenile dependency and delinquency, anything that does not come into that criminal umbrella. This is again since August of 2022 when this information and data began to be tracked by the Oregon Judicial Department. Looking at data this week, it seemed helpful to share with you all because if we go back to this previous slide, you can see all the trend lines really go up. The number of in custody individuals has remained relatively stable except for this one spike last summer but the other trend lines all seem to be going up. But if we look to the last six-month period, so about mid-September of 2023, the situation starts to maybe look a little bit different.

The number of in custody and unrepresented individuals remained relatively stable but the other sort of data that's being tracked, the trend lines are going downward with the exception of right here, the sort of outer right-hand side, the most recent data. We'll continue to track this data and work with our data and research team and other staff throughout the agency to understand and to monitor what is happening with this population and this group of cases so that we can continue to be nimble, keep you all apprised and we can adapt policy and whatever else we can to be responsive to this situation. Again, when you look at a point in time, things can look really different than they do looking at the trend. So, we're trying to marshal all of that data and information so that the commission can be as responsive as possible.

Also, wanted to show you because we do have later this afternoon sort of special focus on Multnomah County so I've provided the same data in the previous two slides but specific to Multnomah County. Again, this slide shows you the overall trend lines for all of those same areas going back to August of 2022. This is that most recent six-month period going back to about mid-September 2023. I'm

happy to attempt to answer any questions you all may have about this data although this is not necessarily my area of expertise but I am looking at it a fair amount. So, if I can try to answer anything, I'm happy to try to do that. This is a little bit different visual than we provided you in January.

We're constantly re-evaluating our data tools that we use working with our data and research team to have the best tools we have available at any given moment. This shows you the overall spending for the temporary hourly increase program. The very large blue bar on the left there is the amount of attorney fees that have been paid out under the temporary hourly increase program, what we call it within the agency the THIP program. The middle column there that bar shows the non-investing so all other pre-authorized expenses associated with these cases assigned at increased hourly rates. And then the final bar there on the right that's sort of a red orangish color, that is the investigator fees that have been paid out at the increased rate for investigators under the THIP program.

On the right up at the top, you can see where the attorneys that are taking these cases sit within the system whether they are on a contract somewhere in the state or are they working solely as an hourly attorney. This is an area that we're working on cleaning up some historical data. I expect these numbers to shift a little bit but this is the best information we have right now available to us. And then the other two charts there just set out the breakdown by case types, numbers overall and then what jurisdictions we're seeing these cases and the numbers associated with that. In Jan...February, January, I cannot remember, I guess it was early February, I talked a little about bit about the work that the agency has been doing collaborating across divisions to improve our processes associated with unrepresented persons.

One of those is the hand out that we've worked on for unrepresented persons that is finalized and ready for distribution. We've had it translated into Arabic, Chinese, French, Korean, Russian, Somali, Spanish and Vietnamese to try to hit as many different languages and make sure people have as much access to this information as we can provide. We'll continue to assess and evaluate whether additional translations are needed. We also talked about a communication form that we've been working on for judges and court staff to try to streamline communication between the agency and courts throughout the state. In consultation with the Oregon Judicial Department, we've identified ways the form could be streamlined resulting in a simpler form.

Also, the agency and the Oregon Judicial Department are working on how we share data with each other. We think that that is going to enable some additional improvements. That is a work in process while we're working on this. But the sort of initial work internally has been largely completed. We're communicating with court staff throughout the state identifying some places where we can try to test

and pilot this form to make sure it's going to be something that is going to work for both pre-court work purposes and for our purposes and be something that actually is an improvement. To me, this is one of the most exciting things that we're doing right now because it's going to I think automate a lot of manual processes right now and enable us to take a workload that is like this and shrink it down about this so that we aren't spending our time on entering data and answering emails but we are actually looking for attorneys and connecting attorneys with people who need them as quickly as we possibly can really enabling us to focus our energy where it's really most needed.

And then finally, the trial support and development team is, based on some meetings that we've had already with some court staff, it's very clear that we have work to do on improving our communication overall. We're setting up...attempting to set up some initial meetings to establish or re-establish contact and communication with courts to make sure there's an open line of communication and then trying to figure out within the staff and resources that we have available, what kind of regular interval meetings are needed or whatever kind of communication we can put in place to make sure that we're as responsive as we can be to judges, court staff and the situation overall throughout the state. I'm happy to answer any questions about any of those things as well.

Jennifer Nash: Are there any questions for Ms. Flowers? Yeah, any questions?

Rob Harris: I've got some questions. Thank you, Ms. Flowers. It looks like this this the total data as far as unrepresented people has worsened?

Shannon Flowers: I think it depends on what period you're looking at. Certainly if you go all the way back to August of 2022, that is certainly true. That is part of why I thought it was helpful to include what does the last six months look like. It doesn't mean that the problem hasn't gotten worse over time but that most recent six-month period gives us some indication of stabilization and improvement.

Rob Harris: I was looking on your page three of your presentation which has active criminal contract. This doesn't even the juvenile. I think we do have some shortage in juvenile on some areas as well, just criminal stuff but we can't neglect the juvenile load. This is from July 23 which is the start of the contract period. I'm assuming that 552 reflects the total MAC not attorneys?

Shannon Flowers: Yes, yes

Rob Harris: And then we went up in November, we had high point 583 since then, we actually lost maybe seven down to 576. I notice, looking at your, looks like the non-profit, the law firms organized as non-profit firms have increased by six. There's probably a watermark there, 245. But all the rest of the lawyers, law firms, individual

contractors consortias, they have gone down from 344 to 331 so we've lost capacity. Do you know whether that is a reduction in MAC per attorney or reduction in [Inaudible 02:40:02]?

Shannon Flowers: Can you orient me to which specific [Inaudible 02:40:05], sir?

Rob Harris: Yeah. It's on Page 3 of your presentation.

Jennifer Nash: Are you looking at OJD or you're looking at....

Rob Harris: Oh, am I looking at OPD?

Jennifer Nash: Yeah. You're looking at the OJD which we don't have on the agenda but I thought I'd just add.

Rob Harris: Yeah. I got that into my notes.

Jennifer Nash: Yeah. No, I thought I'd integrate.

Rob Harris: Okay, I apologize..

Shannon Flowers: That is just fine. What I can say is we continue to work with OJD to ensure that that data is as accurate as it can be because it's very.. There are challenges with our data systems at this point and what we have in place around... And our contracting structure at this point, really tracking those things accurately. So, we're in continual conversation about that.

Rob Harris: I apologize. I don't expect you to be able to answer that question. I guess my question is if this OJD information is accurate, we're losing providers the private bar side or at least we're losing MAC on the private bar. I don't know if that's right or not but if it is, can you take a look at that and ask why people are reducing or leaving?

Shannon Flowers: Yes. Yes, we will definitely do that. We continue to look at that and see where. How many attorneys do we have? How are they working? Where do they sit within the system? I think some of that, knowing what has happened over the last nine months around contracting and especially with new contracts that we put in place in the fall, there are people who shifted. Knowing that an hourly system is coming, they elected to shift from being on a contract to working hourly. I think that explains at least some of what you be seeing.

Jasmine Wright: Ms. Flowers, what's the... I'm asking you to look in your crystal ball here. What's going to be the real impact that you're, because you're going to have to do this a little bit right now, what's going to be the real impact of the re-criminalization of

110? How are you from an agency's perspective, how are you staffing this? What are your expectations of what this is going to look like from a charging perspective? How many cases are you expecting to see this and what impact are you expecting this to have?

Shannon Flowers: I think that's a question...

Jasmine Wright: Because just in the testimony itself from the DA side to the...from the criminal defense side, there were drastically different testimonial numbers in terms of what that was going to look like. What do you expect that it looks like?

Jessica Kampfe: Commissioner Wright, if I could invite our government relations manager to come join us.

Jasmine Wright: Sure.

Jessica Kampfe: I think that she was very much involved in the work that the agency did to cost out the impacts of...

[Crosstalk 02:43:00]

Jennifer Nash: Actually, if we could table that until this afternoon. I'm staying on time and what's already on our agenda. Maybe we can wait until Ms. Taylor talks about that later? Is that all right?

Jasmine Wright: Yeah, yeah.

Jennifer Nash: Thank you. Sorry. I'm deterministic to our buffer. All right. Anyone else have questions or concerns about....or questions for Ms. Flowers?

Bob Selander: [Inaudible 02:43:28]?

Jennifer Nash: I'm going to try transition to that now to get... Who should we ask questions about, Director Kampfe, about the OJD report?

Jessica Kampfe: Well, nobody in the agency generated that reported and it was not provided to us in advance of being submitted this meeting materials. We can certainly do our best. It may depend on has the right information to answer the question or we might very well tell you that those are questions that we would have to take back to OJD and that we would provide an answer when we have one available.

Bob Selander: Okay. I just have a question for Ms. Flowers. You're talking about the probation violations. By the way, I really just appreciate the dashboards, the work that everybody's involved in to get this information on but when you showed

Multnomah County, I was confused to see Multnomah County is actually down in probation violations by the amount. Who has, this is the way I understand the system, who has that oversight of how probation is working county by county? Is it the district judge who has oversight of probation? Who has oversight of probation?

Shannon Flowers: I mean, I think it's probably a number of factors but I mean, I think some of what you see is the variation by jurisdiction in those different decision points that impact this problem, if you will. So, charging decisions, docketing decisions, those sorts of things they make a difference in what is happening. I know Multnomah County has practices that aren't the same as other jurisdictions throughout the state. I think that is reflected in what you see, at least at first.

Bob Selander: So, it's decided within each region there's a decision-making process about how probation is going to be operated, or?

Shannon Flowers: I would say that it's probably not a process maybe in the way that you're thinking about it. It's a process in the sense that there are things that happen and they move a person or a case through the system but there's not necessarily a global unified approach to all of that.

Peter Buckley: Commissioner Buckley. Maybe it's helpful. When someone's on probation, they're subject to the jurisdiction of the court for the period they're on probation but they also have a supervising probation officer who can impose sanctions upon that individual without court involvement in a limited way and also with agreement of the person. I think what you see is different jurisdictions utilizing the courts with their probation system differently where some maybe delegate a little more to the individual probation departments and other courts want more oversight of that probation engagement.

Sen. Floyd Prozanski: I believe they come to the county and the county has different ways who does their probation and then all of that goes under the umbrella of DLC. So, there's a lot of other inputs and oversights.

Jennifer Nash: Are there other questions about the OJD unrepresented crisis update?

Bob Selander: Just a concern raised that when we set up the state offices, there was a concern we'd would be taking attorneys from current public defense entities. It does seem like that is happening in some cases. So, we have to keep our eye on that overall concern as we set up the state offices, what they [Inaudible 02:46:54] in various areas of the state where a lot of [Inaudible 02:46:59].

Jennifer Nash: Do you want to talk about that a little?

Jessica Kampfe: I believe Mr. Jeffers is going to talk about the establishment of the state offices. I will say that we did hire one public defender who was working in Eastern Oregon to come to the Medford-based office. I believe that individual was actually living in [Inaudible 02:47:22] and commuting to [Inaudible 02:47:23] City at the time that they applied for the position. And after the Oregon Judicial Department alerted us to the concerns around what would happen with the caseload for that lawyer, we worked really collaboratively with the judge and the entity in order to identify counsel for those cases. It was Shannon Flowers' team that did that coordination. I know she may very well be able to speak to the efforts that were made to identify counsel for as many people as possible.

Shannon Flowers: Well, I'm never going to miss an opportunity to give a shout out to specific people on my team. It was really B.J. McCartney, who's one of our program analysts and K.O. Burger, who's getting a lot of shout outs today. They both worked really hard and worked with the court and court staff to get as many of those cases covered by new attorneys as quickly as possible and working with the providers in Eastern Oregon. It really was a good moment in a lot of ways because it demonstrated what we're capable of when we collaborate both internally across divisions within the agency and all the staff and with courts and court staff.

Bob Selander: I'm all for collaboration. I'm all for giving another attorney to Medford. right. These are the concerns that I'm glad you're paying strong attention to it and then the longer-term impact as well.

Shannon Flowers: Yes. My team continues to coordinate with Mr. Jeffers and the trial division as they're implementing new offices and standing those up, hiring new attorneys into those offices. Where we need to pitch in and help manage the situation, make sure cases are covered, clients have attorneys and there's not a gap when that's what needs to happen. That's an ongoing thing for us for sure.

Bob Selander: Thank you.

Jennifer Nash: Any other comments or questions? All right, thank you, Ms. Flowers. We're right on time. Yay. So, moving on to Mr. Jeffers — the trial division pilot program briefing. You are muted in case you are talking. I can't see.

Aaron Jeffers: Hello, Chair Nash, commissioners. Can everybody hear me?

Jennifer Nash: Yeah.

Aaron Jeffers: I don't know if you can see me as well but I'm glad you can hear me. My name is Aaron Jeffers. I'm the Chief Deputy Defender for the trial division of Oregon Public Defense Commission and I'm here to talk about the regional trial offices today. We're going to start with the first office that we opened, the Northwest Regional

Trial Division. That office, we have a focus on taking cases for unrepresented people in Multnomah, Washington and Klakamas Counties. There are six deputy defenders now in that office as well as a paralegal, legal secretary and two investigators.

And I said deputy defenders, they're senior deputy defenders. So, they're all taking major felony cases. That office opened on December 18th 2023 with a single attorney, a legal secretary and a paralegal. We did add the second attorney the next day. We continued to add attorneys as well as the investigators throughout the winter. Our most recent addition was earlier this month, the last attorney. That's an overview of kind of who we have at the Northwest Regional Trial division. Mona, can you move to the next slide? Next, is a Southern Regional Trial Division. There, we're focusing on representing people from the unrepresented list in Jackson County, Douglas County and Klamath Counties. We have three senior deputy defenders out of that office, a paralegal, a legal secretary.

We have two investigative positions. We just hired one of the investigator positions and we're still interviewing this week for the remaining investigator position. The legal secretary and the first attorney began... The legal secretary began in mid-January and the first attorney started January 29th out of that office. Two more attorneys joined in early February. We hired a paralegal in March and as I said, our first investigator is set to start in April. We're still looking and interviewing this week for that final investigative position. We are still working on the office space for Medford. We've been looking at a lease that we know the location. We've been working on a lease and finalizing what things we need to secure the office space. The target date is April 1st although it could also be April 8 but we're hoping to open the doors on the Medford office space, it's in Medford, on April 1st or April 5th.

And then there's the Mid Valley Regional Trial Division or Central Valley Trial Division which is going to be based out of Salem. That office doesn't exist yet but we are... Funding for these positions here begins on April 1st. The physical space does exist. It's going to be right here at the main office where I am. I'm not moving. The people that are going to be staffing this division are going to be right outside where I'm sitting right now. We're preparing that for April 1st moving date for people that are able to start then. There's going to be three senior deputy defenders to begin with, a paralegal, a legal secretary and two investigators in the Salem office. We are currently interviewing for all positions for starting as early as April 1st. I believe we're going to have at least one attorney starting on the 1st of April. Next slide please, Mona. Okay, so who are our senior deputy defenders?

They are all attorneys with experience in public defense. They were skilled and they've all taken... They're all major felony qualified. They've all handled serious

cases at trial. They're capable, have the expertise to deal with time intensive priority cases and work with all kinds of different clients and places. They have substantially increased our capacity. Of the nine senior defense attorneys that we hired, only two had active defense caseloads, active adult criminal defence caseloads. So, by bringing these people into these positions either from out of state or who had formerly been public defenders in Oregon coming back to public defense, we were able to have 100% capacity for seven of those nine positions that we hired. Two were with the adult public defense system department.

I did not anticipate it being that significant but we want to continue that moving forward. It looks like from the applicants we have for the Salem office, that will be also 100% capacity added if we hire more current applicants for those positions. They also bring diversity. We have one attorney that was a public defender, defense attorney in the state of New York for 17 years primarily out of a Manhattan and Brooklyn area. Also, had some time as a federal public defender. She's fantastic and brings a wealth of experience and knowledge to our office in [Inaudible 02:55:42]. In the southern office, we were able to add an attorney from the State of Florida who had 22 years of experience as an attorney there initially as a prosecutor but for the last 17 years doing public defense.

That attorney was able to take very serious cases down in Jackson County. Attempted murder, 25 year or more sex abuse cases. Has already been able to resolve one of her serious cases for a client that have basically conflicted every other attorney in that jurisdiction [Inaudible 02:56:23]. So, there is this diversity in backgrounds and people that are coming back to the to public defense. Have been administrative law judges, they've worked in other areas like youth rights justice, some juvenile law for a while. They're bringing difference perspectives back to these positions. It's great having all of these different lines working on the cases and issues that are coming out as we build this trial division. [Inaudible 02:56:57] Mona, can you go to the next slide, please.

What type of cases do we do? The nice thing about our office is that we're responsive to multiple jurisdictions. So, we're able to move to places where there's the greatest need. Washington County earlier this week, we were able to take a number of cases for Washington County that has brought their in-custody numbers down to zero. Which means that we can focus on working with Multnomah. Clackamas County also does not currently have any in custody unrepresented as well but those things change. Those numbers fluctuate. We're able to, because we operate in these different jurisdictions at these levels, we're able to help meet the need as it comes up in those different jurisdictions. Same thing is true down in Jackson County and Douglas County and Klamath. We are going to be meeting with the presiding for Klamath County hopefully soon.

We don't have any cases out of Klamath County yet but we anticipate that that's coming the near future. We are actively taking cases out of Jackson County and Douglas County and also participating in some special set resolutions, special set court dates to try and see if we can resolve out custody cases as well for people [Inaudible 02:58:34]. The primary two cases that we take especially for in-custody clients are ones where there's a conflict for all providers already. So, all the other providers that have existed before our office have a client conflict, a former client, a current client conflict that makes them unable to take the cases. We are new enough to where we don't have those problems yet. We've only had it once so far in Jackson County where there was a case that they wanted us to take that had a conflict with another client that we'd already represented.

So, except for that one case, we've been able to take those cases on. The other, and this is the larger group is that when the providers that existed prior to us are just at maximum capacity and can't take additional cases, that's when we're able to step in and take in the caseloads that we have the capacity for as well in all of these jurisdictions. Mostly they're senior level. And then we are looking at a group of misdemeanor cases for kind of early resolution. That's all, that said. These are just some of the things we've seen that have been said. We're taking priority case we know that because they're telling us that. "This is the number one priority case. There's a hard deadline on this." And we're able to step in, represent that [Inaudible 03:00:12]. There's some very serious people who have been waiting for a long time without an attorney in another matter.

We were able to step in and take that case. We've got some good feedback from the court as well so far. Those are just some examples. Next slide please, Mona. The challenges for us right now, the primary surprising challenge has been just the network that we have not being able to process the size of the files that we are frequently dealing with in public defense. Data processing and storage has been a huge issue. It can take eight hours or more to download individual files that we need to get at in order to start representing clients. They can even just time out even if you tried to leave it overnight. The system just can't handle it. We're looking at getting off the system that we have.

We're looking at all kinds of different options have been since the beginning of this issue. Our new chief information officer has been trying to implement a number of the various potential solutions that are ongoing. We think that's a problem that will be solved but we are still dealing with it. Obviously, it's working with different jurisdictions. It's not just one place does it one way. We have to figure out how to do it all, the different ways all the different to doing things. An issue for all public defenses not just us is still responsiveness to missing information or just communication in general, the speed of communication about trying to resolve some of these issues. Consistently from all of our attorneys, we need additional support services.

A paralegal and legal secretary are very valuable to the office and two investigators are good but that's not really the way that our public defense offices are set up really anywhere. They all have additional support services available. The more we have support services, the more our attorneys can focus on the attorney-only jobs that we're going to get into efficient resolution of these cases and the more capacity we'll have to seek these resolutions of child [Inaudible 03:02:27]. What's next? We talked about the Mid Valley office and Southern offices opening in April. We're also awaiting funding from House Bill 3204 where we are going to get eight deputy defenders plus additional support staff. So, part of that need is going to be addressed by that bill. We're going to hire a final [Inaudible 03:02:52] investigator hopefully this week or next week. We're working on improving the data processing issues that we have come across and we are just seeking to continue to offer high quality service to as many clients as we can. That's all I have for my presentation.

Jennifer Nash: Thank you, Mr. Jeffers. We appreciate it are there any brief questions for Mr. Jeffers?

Susan Mandiberg: I do have a question.

Jennifer Nash: Yes.

Susan Mandiberg: What kind of caseload do you anticipate each attorney in the trial division to have?

Aaron Jeffers: Commissioner Mandiberg, Director Kampfe is here and can answer that question for you.

Jessica Kampfe: Thank you, commissioner Mandiberg, for that question. Our offices are doing hourly timekeeping. So, we are looking at setting caseload standards based on an hourly timekeeping model. At this point in time we haven't even gotten close to answering that in large part because of the data processing issues that we're having. The Oregon Judicial Department's security settings for their network are very stringent. They have created a lot of challenges with our ability to download discovery. That has been the thing that has slowed us down the most in being able to ramp up the amount of services that we have but we're continuing to work and refine the answer to your question.

Susan Mandiberg: Do you have a goal for caseload?

Jessica Kampfe: Our goal would be an ethical case load standard similar to what we'd like to see adopted across the board for public defense.

Susan Mandiberg: So we can anticipate a difference between the state employee public defenders and the contract public defenders, at least for some period of time?

Jessica Kampfe: I would think that the state employees would eventually look more like the hourly folks because they are doing hourly timekeeping. So, we would be looking at a model that was based on the hourly timekeeping that they're doing.

Susan Mandiberg: Thank you. All right, and with that, we will... Unless someone else has a pressing question. I'm sorry.

Jasmine Wright: One quick question. Mr. Jeffers, this is Jasmine Wright. Would you expect to have any public defenders that would be based out of Klamath? I know we've had a discussion about this.

Aaron Jeffers: Commissioner Wright, in the future, that's certainly something that we are looking at. With the current three positions, two of them are going to be based out of Medford and one is based out of Roseburg. The office is in Medford but all three of them would be eligible and in fact Medford's actually a little closer to Klamath. So far, the way we have to meet the need is that all attorneys potentially need to be available to represent people in all jurisdictions because we just have to make ongoing determinations about who has capacity and when the need comes up in a certain location, we have to have send the attorneys with capacity to that place.

Jasmine Wright: Understood. Thank you.

Jennifer Nash: All right. Thank you. With that, we will take a break for lunch. It's 1207. Let's come back at 1:05.

[Break 03:06:23 - 04:04:15]

Jennifer Nash: Thank you and welcome back to the March 21st afternoon session of the Oregon Public Defense Commission meeting. I'm Jennifer Nash, the chair. Before we get started, it occurred to me and that it was a fleeting thought and Mr. Deitrick reminded me we are in person now. We're not on virtual recording so we don't have AI identifying us. So, when we speak, we should identify who we are so that it's clear in the transcript. With that reminder, we have a two-hour panel discussion regarding the current state of Public Defense in Multnomah County. I will turn over that discussion to Annie Borton who will be moderating.

Annie Borton: Thank you, Chair Nash, members of the commission. My name is Annie Borton. I'm Resource Counsel for the Trial Support and Development Division. My focus is on the PCRCP program, Juvenile PCRCP program and Family Treatment courts. Today, you're going to hear from two juvenile commissions as well as a criminal... Sorry, two juvenile panels as well as a criminal panel after. The first panel is a

group of long-time practitioners who will introduce themselves shortly. They're going to talk more broadly about the juvenile practice in Multnomah County starting with kind of an overview of the practice and getting a little bit more into kind of what their work looks like. The second panel is actually going to be a discussion of a case and an example of what the PCR program can bring to the work and why it really matters so much and how case managers can really impact a case. With that, I'm going to turn it over to the panel to do introductions. I'll start with Cory Niles as he starts [Inaudible 04:06:00].

Cory Niles: I'll do my best to use my voice. Every time we're projected on something, I think I got to go through the ethernet to the other side. My name is Cory Niles. I'm an attorney in Multnomah County. I've been practicing here for about 14 years now in strictly in juvenile dependency and termination of parental rights cases. Prior to that, I spent five years in Maricopa County Arizona as both an assistant attorney general and public defender and then came here. Opened a practice and I'm now the administrator of Portland Juvenile Defenders which is a Consortium of eight attorneys and six law firms.

Kristy Barrett: I'm Kristy Barrett: I run Sage Legal Center which is a non-profit and we have 2.5 attorneys doing dependency work in Multnomah County and a few cases around the state lately. I also run Rose City Juvenile Consortium RCJC which has another law firm which is a private firm, Alavi & Hines, which has a 2.0 FTE all dependency I've been practicing about 25 years in Multnomah County specializing in Indian Child Welfare Act cases.

Dawn Andrews: Good afternoon, commissioners and Chair Nash. Thank you for having us. My name is Dawn Andrews. I'm the director of Multnomah Metropolitan Public Defenders, Multnomah County Parent Child Advocacy Division. I've been practicing in Multnomah County about 30 years. Originally, I did adult division work and then when we were automatically waiving children into adult court at the accusation stage, I was representing children in adult court. When we saw the end of automatic waiver, I transitioned back into juvenile work so I would be able to handle those cases that had waivers filed. Now, I work with a team of six lawyers, two case managers, an investigator. For legal assistance, we do dependency work, termination of parental rights work. We represent children in delinquencies and waivers and if they were to get waived into the adult court, we would assist with that litigation as well.

Maggie Carlson: I'm Maggie Carlson. I am easily the least experienced person on this panel. I've been practicing for I think seven years now solely at Youth Rights and Justice which is a non-profit law firm that specializes representing children and families foster parenting delinquency proceedings. YJ is special because we also have our education program so we represent families who are need some assistance in the special education or education related litigation. Yeah, my primary work is

representing children and parents in dependency and termination of parental rights cases and children in delinquency cases.

Annie Borton: We thought we'd start with kind of the very broad like thousand-foot view of the practice since some we know some commissioners are less familiar with this. I'll turn it to Dawn to talk a little bit about the delinquency system.

Dawn Andrews: Okay. So, from a thousand foot up we work for children that 18 or below. If you are suspected of engaging in behavior that would be a crime if you were over the age of 18, you could have a petition filed. It is technically civil but it has a heavy criminal consequence and impact and it has a lot of overlay of criminal rights through [Inaudible 04:09:39]. In Multnomah County... Let's see what [Inaudible 04:09:45] talk about. The big focus, not just in Multnomah County, nationally as you know since the 90s, there's been a great development in the science of brains and particularly the underdevelopment of children's brains. People that do delinquency work I like to think of as sort of like the Ginger Rogers of lawyers, defense lawyers because we need to know everything an adult criminal defense lawyer knows except how to pick a jury.

We also need to know brain development. We need to really understand it. We track our clients not just through the adjudication, which would be the proven not proven that you engaged in that behavior phase. But we work for children through disposition, which in adult court is sentencing. And then we also stay with our children post disposition because sometimes they become ward to the court through the Oregon Youth Authority being committed even if they're on probation. We continue to work for those children and to monitor the legal aspects of their situation. We also can do work for what we call prepetition. We can become connected to the children prior to allegations, work with the family to try to avoid a delinquency accusation petition even being filed but we can do a lot of upfront work to help that child move along if a petition does get filed. We do prepetition work and we also do post-disposition work.

Sometimes in Mult...well, all over the state but Multnomah County there's a very strong practice and focus on post-dispositional work trying to manage vacating delinquency orders if the child has gotten the benefit of the services and the involvement of the juvenile system. We can help the child succeed as an adult by undoing the records or limiting access to [Inaudible 04:12:04]. I know that Maggie will talk a lot about the work that they do for expungements. They have a specialized practice there. One of the things that you need to do the delinquency work that you don't really see in adult work, you've got someone over the age of 18, they come to you with children as your clients sometime as young as 12 or 14 but usually they're floating around the ages of 14 to 17.

Those folks, we meet them where they are to get their work done in a delinquency case. I know Annie can speak to that because I'm aware that she's played basketball with a lot of her clients so that they get comfortable with her so that they would start working with her on making very serious decisions about whether they're going to admit to an allegation or not and to make sure that our clients' children understand the choices that they have to make once the petition's filed. We go into their homes to meet with them to do their legal work, to explain their options. We go to parks. We have to work with them and their families sometimes to make sure that they get transportation to where they need to be when they need to be there because our clients' families often don't have the resources to even get their kids where they need to be to do critical evaluations to get to court or to meet with us privately. That's one of the big things that's different, I think, in delinquency work. I think I've covered everything. If, Annie, you want me to talk about anything else about delinquency?

Annie Borton: No, I think that's good. I think and we're going to have Kristy talk about kind of dependency and then we're going to turn it over a little bit more specific to Multnomah County and hopefully have kind of a discussion about the practice. Kristy, I'll turn to you to do a similar thing but with a very different type of practice.

Kristy Barrett: Very different. I think one of the pieces that is the biggest difference is that a delinquency is often just a tiny incident, maybe an afternoon in a person's life that leads to a case but in dependency, it's really everything that's ever happened to a person that goes into their capacity to parent. When we are assessing cases and meeting with people, it's not just what happened in the last week or in the last year but often can include a case from when a person was a child in the system themselves and then now is coming through the door as a parent. Having practiced 25 years, I've actually been the attorney for a young person or for that person's parent and so then that person is now a parent or they're the grandparent or I've had other branches of family trees and I am actually part of the systemic trauma that my clients are experiencing.

We try to manage through all of that. Like it's good to have somebody who knows you and who knows your story but it's also hard to have all of that information already kind of cast in your case on the day that you're meeting your new attorneys. I would say about a quarter of my cases have folks that have been in care themselves before. About half of my cases have either a family member, an aunt, an uncle has been in care and the family has some idea of what their experience is going to be as they enter the system. That can also be intergenerationally and systemically traumatizing for folks. They have lots of distrust of the system, distrust of who we are and how we come to be part of their case and that we are really just part of that system that is attacking them and potentially taking their children.

In Multnomah County, most attorneys are assigned the day of a preliminary hearing which is what we call a shelter hearing where either children have been [Inaudible 04:15:51] 24 hours or may be removed at the hearing that is going to happen that day. We are meeting clients who have been accused of very difficult and bad things. They may be in active mental health crisis. They may be actually under the influence of drugs and alcohol. There may be allegations of sexual abuse, physical abuse, neglect. Pretty severe situation for people to come in and be held accountable and there are no set overs. There's no, "My client's not in a good place for us to have this hearing today," because safety decisions have to be made and we have to go forward. I would say around 11 o'clock in the morning, we get anywhere from 3 pages to 100 pages of discovery for each family that we're going to meet that day and then we need to distill that by about 1:30 when parents are showing up at the courthouse and are ready to be meeting with their lawyers.

We have about an hour to meet with them, acquaint them with what is going to be happening that day, meet them where they are and try to get to just even resolving where should the child go while we get all of the bigger picture sorted out. I think that creates a duality of our clients have rights and we want to protect them but they also have an agency who has their child and who is making decisions about what type of contact they're going to have. We are often having to balance laying our clients lives open, having them go take UAs, having them meet with people, have assessments done when we would really be wanting to protect their rights and let them have their day in court and their trial. But if we also think that being cooperative is going to get them to their goal which is actually to be reunified with their family sooner rather than later, then we have to kind of balance those and sometimes just let DHS kind of have access to them in a way that is very uncomfortable and difficult in our practice.

Cory Niles: Can I say one thing?

[Crosstalk 04:17:47]

Kristy Barrett: Sure, jump in.

Cory Niles: Part of that balance when we're managing dependency cases, there's an ebb and flow as to the adversarial nature of the case and the collaborative nature. Kristy was talking about the shelter hearing and that's a pretty profound hearing because they're proposing removal of children from our client's care. That can often take an adversarial approach depending on the parent's background. Was this parent in foster care as a child? What experience does his parent have dealing with state agencies and just by dint of the fact that there is a removal being proposed.

But the case kind of massages throughout its course to be adversarial to be collaborative because the overarching theme of juvenile dependency is family reunification. You have to as an attorney, you have to really kind of massage those things to make sure that you're weighing all the adversarial nature, the collaborative nature. Throughout the course of a case, it takes a long path oftentimes because there's a permanence hearing at one spot usually approximately around a year into the case. At that time, even if you're working collaboratively up to that point, it can again resume the adversarial nature if the agency is looking to terminate your client's parental rights. Sorry, I warned you. I probably might interject...

[Crosstalk 04:19:15]

Kristy Barrett: No, totally. I think that's really important for you to hear that. That was certainly a paragraph I have but we can we can remove that. But I think I wanted to also highlight the types of skills that the attorneys need to have is that we need to understand basic child development and to be able to look at our child clients or our parent clients' kids and understand if that child's typically developing, if they have delays, if they have special needs, if they have educational issues. We often get psychologicals. I need to be conversant in medical terms and psychological terms and how our clients are progressing through that and how that may impact how they work with DHS, how it may impact how they work with us and eventually how they parent. There's a bunch of medical issues and in neglect cases where we learn about...do deep dives into particular diagnosis or brittle bones and things that can affect those diagnoses.

We need to know educational law and whether or not our kids are being met in that field. Substance abuse treatment, we need to understand how those systems works, what those diagnosis are. Medical assisted treatment with Suboxone and those types of things are newer into our system and I think we're all still kind of learning about those programs that are offering those assistance to our clients. So, paternity, custody. I mean, jump in, guys. There are ton of grab bag items that come up into the way that we assess safety, the way that we make planning and permanency decisions for the families and that we really need to know and have experience in all these other areas that are not necessarily legal but go into the work that we're trying to do.

Cory Niles: Well... Oh, I'm sorry.

Annie Borton: No, I was going to say this actually is kind of a nice segue. All of the practice before the parent child representation program entered Multnomah County, right, that was 2020, right? So, this is kind of a nice segue to talk a little bit about that change

and kind of tying on to what you were saying Kristy, how that change impacted what you need to know and who's on your defense team in working through that.

Jennifer Nash: I think if maybe you could start with what the Parent Child Representation program is...

[Crosstalk 04:21:22]

Dawn Andrews: All right. I think I'm uniquely able to speak particularly in how it impacted delinquency work because I worked with children that were waived into adult court at the accusation stage 1008 went into effect. We began after 20 years, keeping those children in juvenile court. Before PCR in Multnomah County and state, case managers were not connected to the defense team. There was no support with lived experience or social work experience or child development experience that was not your lawyer there to be with you, hold your hand as a parent or even as a child sometimes dealing with DHS meetings that you needed to go to move towards reunification. That was before. Now, we have that. We have somebody on a parent's side, on a child's side that can comfort them, advocate for them, ask for space at a meeting so that they could work through some type of very traumatic piece of information they're hearing or get even a drink of water. That has been a big plus.

Annie Borton: I think in one other piece on the parent child representation program which we all call PCR is it's an 80-case cap load, case cap. So, attorneys who are full-time attorneys do not carry generally more than 80 cases. There's kind of a 15% variance there but they are limited a maximum of around 80 cases. They also have a case manager associated with about 15% of their cases which Dawn was just referring to. We're going to hear a little bit more about case managers in our next little panel as well. They also have more resources to support for administrative support and legal assistance and other things like that. They're funded at a higher rate by OPDC to be able to provide some of these services. It's in 10 counties and Multnomah County was one of the later counties if not the last County to move into the system in 2010 but as I said, it's only in 10 counties so far.

Cory Niles: One thing with the PCR program that I've noticed in my experience in doing this is there seems to be a PCR case manager who developed kind of a expertise in a particular area. For instance, someone who may have background as a former resource parent who knows how to navigate developmental disabilities, who knows how to navigate certification issues of a resource home, that person could be invaluable on a particular case and especially if you're representing a young child who may have developmental disabilities or someone with mental health background and your client only has mental health allegations. That too could be incredibly useful. We do have the option when we request PCR case managers to identify someone or fields of interest that we'd be working with which is a very

useful tool for us. Because I know prior to 2020, it was a practice of kind of putting out fires sadly, right. But then you get this additional support on these really difficult cases and you could turn your practice from that to being proactive to filing motions, to really advocating and saving litigation practice for the attorney but also having this collective team of support around you. The difference for me is profound having these PCRCP case managers.

Maggie Carlson:

I also think one of the things that PCRCP did is allow for more retention of attorneys for a longer period of time. I know Kristy talked a little bit about sort of all of the different aspects of things that are not law related that we have to know and be good at our jobs. We have to know child development, we have to know aspects of immigration law, we have to know how substance use treatment works and who has openings at the moment. Having case managers on board who can be experts in those things really allows us to sort of take a step back and focus on the law which is what we're all trained to do. None of us are trained social workers that I know of although sometimes we act like it.

I can't tell you how many home visits I used to scramble to get ready for before we had PCRCP and I had people I could rely on where I would be Googling things like what's an 18-month-old supposed to be doing. I had never been a parent. I didn't know. They're supposed to be walking by then so if they're not, that's a red flag. But now, we've got social workers who are experts can help guide us and help figure out so that we can focus really on the law like Cory was talking about. I think the other big thing is with the caseload caps and the increased funding and the increased resources, it does allow for lawyers who are really passionate about this work to stay in it longer because pre-PCRCP, it was much harder. It's still hard, it's still challenging.

80 is a lot but you would have lawyers who maybe would be fresh out of law school and work in this field for a couple years and say, "I can't do it. I can't raise my family on this salary. I can't see my kids after work because I'm working 80 hours a week." It wasn't sustainable. That's different now. Now, I think it is more manageable. Our cost of living is... You can raise a family. You can have a long career. That benefits our clients because then they're not being represented by somebody who's well-intentioned but maybe only has a couple years under their belt. They're being represented by people who've been doing this for 25, 30 years and really have all of that expertise not only in the law but in all the other things Kristy was talking about as well.

Dawn Andrews:

I think before and after, the retention piece benefits our clients and it helped achieve legislators goals when they envisioned PCRCP in this. It was to get kids out of government care faster. If we have lawyers that stick around, we are a profession and not an afterthought now in Oregon I would say in terms of recruiting. I recruit for lawyers that have expressed an interest in this work since

law school. That wasn't happening before PCRCP was in place. It achieves the legislator's goals by this, the lawyers know what they're doing. They have an expertise.

They have the space they need to build the trust of their client. Clients don't have two or three lawyers during the life of the case. These cases differ from adult cases. Even the most serious adult cases in this, we work for families for almost at least a year. The burden proof for jurisdiction in the dependency case is preponderance of the evidence. The likelihood that the state and particularly in Multnomah County because they do a lot of diverting so when we get a case with a petition, these are complex cases with complex clients. They are not like 10 years ago when it was just so your standard drug case.

Why is this here? They could have done something different. The folks and the families that come in [Inaudible 04:29:21] are broken folks. They're very complex. Now that PCRCP is in place and lawyers are able to stay longer and learn more and stay with the family longer, there's trust that helps the family move forward in whatever the family needs to do to keep the child safe and connected to its relative whether it returns home to the parent or the parent trust the lawyer and the team that's working with them enough to make a different plan for their child. It gets the children out of government care which was one of the reasons why the legislators thought that PCRCP was worth the investment.

Annie Borton: I think we have maybe about five-ish minutes here. At any time if people have questions, please feel free to kind of jump in but there's one other topic. I know folks, we kind of discussed before kind of what do you guys think, you have the commission here to kind of speak directly to in terms of what you think is important for Multnomah County in your practice and what you would like to see. Don't all jump in at once.

Dawn Andrews: I didn't want to say I can tell you what I like to see the 80 case count, it's good. It was a benefit. But in Multnomah County because of the complexity of the clients that are in the system and the complexity of the case, 80 too high. That number came from Washington. There's just across the river, Washington is different. Children don't get lawyers in Washington and if I'm correct that cap didn't include delinquency and dependency. In my office or Maggie's office, these lawyers, these experts, we not only have to know dependency law, we have to know delinquency law. We are very unique experts and we are working both of those systems which cross over sometimes but not always.

Sen. Floyd Prozanski: Let me you ask a question regarding the 80. The way it seem to be closed in Oregon for all the counties, are you saying that the 80 is too much for it? Are you querying out or Multnomah County for some reason and if so why Multnomah County is different from the other 35?

Dawn Andrews: Well, I can speak to... I practice mostly in Multnomah County. I can't speak to every county but I can speak to what I understand the differences to be that I've seen and other lawyers that practice in the other counties can tell you if that cap is. PCRP is not all over the state yet. It should be but it's not there yet. In Multnomah County, why, we have many more case hearings. We have many, many case hearings. That's one of the reasons why it's too high. Multnomah County given the houselessness, the complex issues around drugs and lack of resources for drug treatment for not just adults with dependency cases but often children, our cases take a lot of resources. Meeting these kid clients where they are if they're struggling with addiction or the parents are takes a lot of time. Helping these families move forward in their cases given the number of hearings that we have, the complexity, the number of lawyers that might be involved in a case takes a long time to get through one trial. I have lawyers that are in 10, 12-day trials because there are four or five lawyers connected to the trials.

[Crosstalk 04:33:08]

Annie Borton: Can I ask Dawn on that one? How many days does that trial go over? It's 12 days of trial, how many months over?

Dawn Andrews: Oh, it might go over a month two months because they don't have enough judicial space and they're managing the lawyer schedules. So, that 80 cap in Multnomah County if the cap was lower, there were fewer cases, the lawyers would have more space on their calendars to get the trial done and then there still might be the problem of judicial space.

Maggie Carlson: May I jump in?

Dawn Andrews: Yes.

Maggie Carlson: I know Dawn touched on this a little bit and I know I agree that the 80-caseload cap was a benefit to the practice but I think that number did come from a Washington study and there are some significant differences between both Washington and Oregon and when the study was conducted and now. Washington as Dawn said, children do not get representation. So, they're focusing like solely on a parent representation model. It did not account for children being represented and it did not account for delinquency children being represented. Also, the study, I can't remember the year off the top of my head but it took place a while ago and the landscape has dramatically changed. I know it feels a little cliché to talk about but COVID affected a lot and we're still all coming out of it. The number of substance use beds, the number of mental health providers, the number of behavioral providers, all of those services have decreased. It's harder for our clients to get the services that they need.

Dawn Andrews: Also, I'm with you so far. The additional changes would be the technology and the science that now comes into cases to prepare for it. Portland Police are getting their body worn cameras. Beaverton has body worn cameras. I have a misdemeanor case that had 13 hours of body worn camera on 6 different police officers. I could not advise that child regarding gun...it was a gun charge until I had watched all of that video. Then my investigator needs to watch it, somebody needs to show my client what's important about it. If you do the math, you can see how much time that's going to take a lawyer. Body worn camera can come into play in a dependency case as well as a delinquency case.

Annie Borton: I think the Commissioner...

[Crosstalk 04:35:38]

Jennifer Parrish Taylor: I have a question. I'm curious to what extent your clients present with culture specific needs and how does that complicate the work and then on top of that, do you feel that work is resourced in the way that it needs to be?

Dawn Andrews: Are you speaking to the work of the legal team?

Jennifer Parrish Taylor: Children who are not white coming in and those families having sometimes specific needs that are different than white families.

Maggie Carlson: Can I?

Dawn Andrews: Yes.

Maggie Carlson: I don't think it shocks anybody to hear that children who are black and brown are coming into the foster care system at a much higher rate than they're represented in both Oregon's general population and nationwide unfortunately. I think they do have really complex needs that are complicated by the lack of culturally appropriate services in Oregon. DHS does not offer, I will say, service providers who match the cultural identification of their clients. I also think it's important to remember that often, families who are black and brown have more systemic trauma and generational trauma in interacting with the agency. So, they're going to be more hesitant for good reason to trust when the government comes in and tries to offer them services. It's going to be harder to get them to engage. So, yes, absolutely that complicates our work and makes it harder.

Annie Borton: Kristy, if you could? I mean, your work specifically is focused a lot on the Indian Child Welfare Act cases.

- Kristy Barrett: Right. That obviously brings another party to the case which is the tribe which often is outside of Oregon. So then we're trying to work with that and have the tribe be able to participate a meaningful way. There are often difficulties because of the rate which Native children were removed from their families or being able to have any of those families approved as care providers now because there have not been a lot of changes in the certification process and background checks that those families can't have. The houselessness, all of those numbers are bigger for more minority populations which then make all of the services harder. And then also, our clients going into treatment settings where they feel to be the other and having those experiences with the other clients where our clients can be very difficult to each other in those settings. All of these result in those people shutting down and not participating, which then we need our PCR case manager to be going out and getting them again and building them back up and trying to get them back to the table so that they can successfully reunify with their children.
- Annie Borton: We're pretty much out of time but I just want to one follow up on that. Do you feel that having a, like, how much of the cultural expertise do you think the lawyers have versus the case minders like in terms of understanding where your clients are coming from and did you learn any of that in law school?
- Kristy Barrett: Did not.
- Cory Niles: Zero in law school.
- Kristy Barrett: Right. I mean, my office has been doing the Indian Child Welfare Act. We've had the contract since 1993 originally at Naples Native American Program of Legal Aid Services. The attorneys, Ms. Mara and I at my office have a very specific cultural practice that is not necessarily supported by the contract. It used to have a slightly different rate but now that everything is across the board is the same, we still have the same 80 even though we know that some of our clients are going to have much more difficult situations. I don't know that there's a firm that really has a specialization for the African-American.
- Maggie Carlson: No. I think that's something that we are definitely lacking.
- Kristy Barrett: Very few practitioners who reflect that although there are a few but trying to bring more diversity within our field. Again, if we're just trying to retain anyone in the seat let alone trying to get those people to apply and stay who have those types of skillsets and community connections is critical.
- Dawn Andrews: I think access to case managers is critical. I mean, of course recruiting and retention of lawyers that are culturally connected to our clients would be a tremendous amount of help. I'm sure a lot of my clients are just thrilled when I show up to meet them where they are in their neighborhood right at their home

but more case managers on more cases would help tremendously with that. I think there are case managers that do have lived experience and could connect better and build trust faster than I can build with my clients.

Annie Borton: That's all we have time for so we can get to our other panel but I thank you all for coming and being here today.

Cory Niles: Thank you.

Dawn Andrews: Thank you.

Annie Borton: Next, we're going to very briefly hear from our case manager administrators for the PCRCP program while we get our next panel ready to come in, which hopefully my colleague, Christine, will help queue up there but if Dana and Shannon, you guys want to come down here. I'll let them do this will be a very brief section. It wasn't quite on the agenda but we realized it was very important for you all to understand the PCRCP program has a case manager program that is administrated...administered, I guess, by two of our private contractors who are here today. I'll let them kind of very briefly explain who they are their experience kind of what they do because it's one of the most important pieces of the program. Dana, I'll start with you

Dana Brown: Great. Thank you. Good afternoon. My name is Dana Brandon and I've been an Oregon Public Defense provider for about 25 years. I have a master's degree in public or in...public defense...in social work. For the last 10 years, I've contracted with OPDC as the senior case manager administrator for the Parent Child Representation Program. My role is to provide recruitment, training, technical support and oversight functions. We implement training with our case managers with a focus on client driven support and advocacy within legal defense teams. We also provide technical support to our case managers, which is a huge benefit to them as they navigate clients who are in crisis or other high-risk or ethical scenarios that come up for them doing this work.

I think the panel did a good job of kind of talking about the role but I will say that they work as agents of the referring attorneys. They adhere to the client attorney client privilege. They're skilled in client engagement strategies and building rapport with clients. Many talked about the distrust that many of the clients have with the system. Yeah. I think that having that client engagement background and the building of trust and report and that social work perspective really provides a lot of insight to the legal defense team. I'm happy to be here and support our panel that you'll see and happy to answer any questions from the commission.

Annie Borton: Yeah. I think Dana and Shannon will both be here afterwards to answer questions. We'll turn it briefly here to Shannon Getman to introduce herself.

Shannon Getman: Thank you. We are very excited to be here and have an opportunity to talk about this program. I've been in this field for over 20 years as well and I've worked for ODHS. I've worked for the DA's office as an investigator in the juvenile branch as well. I was so excited, I was also investigator out there in field as well and very excited to come on to this program. Because having seen all those sides, I've realized that it's just as Dawn and everybody said here, it is an amazing opportunity to have a case worker or a case manager involved with the defense side of things and add that aspect to the client that we're helping whether it be that child or that parent to be able to have their story told. Sometimes it's the first time that they're able to tell this story of theirs.

That is an amazing foot to start off on for our clients. I personally in this program, I help manage the database that keeps track of all the that we're working with the case managers. I speak with the case managers often. We discuss the accuracy of their caseload, their FTE load, everything that goes into this interdisciplinary legal model. We are able to represent these clients quicker and get permanency faster for them. That's what our goal is in doing this. Let's see. I specifically help manage that database. We go through it, we make sure that everybody that we're dealing with, there's conflict checks that have been had. Our case managers do their own conflict checks. We just make sure that we are keeping everything in order and making sure everything is happening [Inaudible 04:44:42].

Annie Borton: We at the agency are very grateful to them because they do a lot of... They do the administrative work of this program. Anyone here would tell you that their work is invaluable. But now, I am going to ask them to step back so we can get the next group up here to kind of talk through. I'll let them introduce themselves as well but this is going to be an example of a case that closed. We have a former client, Valentin Rosales, here with an interpreter. They're going to give an example of a case and how they worked together as a legal team, which you have in front of you, to a successful resolution. I think we're going to just start with a brief introduction. We'll start this way and go down. Jason, why don't we start with you on a brief introduction of yourself.

Jason Pierson: Oh, sure. Hello there. My name is Jason Pierson. I'm the attorney in Multnomah County. I've been practicing specifically juvenile dependency for the last nine years. I have my own firm. You met Cory Niles in the last panel and I'm part of his consortium.

Annie Borton: Do you want to go ahead?

Toni Lopez: My name is Toni Lopez and I'm a case manager for the PCR program. Prior to this, I worked in dependency with a law firm that represents clients independency since 2016. I've been doing this since 2021.

Annie Borton: As a case manager?

Toni Lopez: As a case manager, yes.

Annie Borton: Can you give a little background of what value you bring as a case manager.

Toni Lopez: Yeah. I am bilingual bicultural. I also have a many years of lived experience as well as professional experience in advocacy and just direct services in just various... I started out being an advocate for domestic violence and the court system in Washington County. I come with a lot of knowledge of providing direct services to clients.

Annie Borton: Now, I'll turn it over to Valentine here. You can briefly just say your name and introduce who you are.

Valentin Rosales: [Foreign Language 04:46:53].

Ian Griffin: My name is Valentin Rosales.

Valentin Rosales: [Foreign Language 04:46:59].

Ian Griffin I am Lucy's father.

Valentin Rosales: [Foreign Language 04:47:05].

Ian Griffin: Lucy Valemz. [Phonetic 04:47:07].

Annie Borton: We'll have the interpreter introduce himself briefly.

Ian Griffin: Yes. Ian Griffin, certified court interpreter in Spanish.

Annie Borton: All right. Now, we're going to jump a little bit more. I'll turn to Jason here again to kind of go a little bit over the case itself.

Jason Pierson: Yes. We're here just doing a case presentation and basically what occurred for in my experience starting opening the case, getting Toni involved and then the experience with that. The case opened with some allegations that the father's whereabouts were unknown and that he had neglected to parent his child. Neither one of them turned out to be completely accurate. We decided to negotiate that to some language regarding Valentine not having a plan in place to parent his child. Valentine really didn't know his child coming into this case. It was kind of an unusual case because the child, Lucy, didn't speak Spanish and Valentine didn't speak English.

There really needed to be a plan in place in order to get to reunify this family because at the time that we started out there just simply wasn't a way forward. I'll kind of leave it at that. At about six months in after some conversations with DHS, I discovered that there wasn't as much progress being made as we would have hoped in the case so that we could get the family reunited. I made the referral for specifically a Spanish speaking PCRCP rep and Toni was assigned. That's when the case started taking off.

Annie Borton: Yeah. Toni, can you just talk a little bit about how you viewed the case when you came in and what that looked like?

Toni Lopez: Yeah. When I get a case assigned, I always make sure that I go through OCI and just look at all the background to kind of have a good understanding of what brought the case in then I'll staff with the attorney. That kind of shows me like things that kind of stick out for me that might be goals for the case. I'll staff with an attorney to make sure that we match, those goal matches. If there something that I missed, we can address that I missed. When I came into this case, what I saw was that we had a DHS having a perception that they had a parent, that there was no safety issues to return this child.

So, they were kind of, like, what is happening? I think their assessment of it was more of like what is this father's commitment to their child and not really looking at it as some of the cultural barriers that I saw that kind of popped out for me just from the get-go. It's not uncommon for Latino clients that I work... I'm going to specifically say Latino because that's who I work with, for them to just be very agreeable when it comes to the agency. Anything the agency ask for, they will say yes. They will not have the confidence to go against what they're offering as to not be perceived in a negative light not understanding that they are thinking about how doable the thing is that they're agreeing to. I think that was one of the main barriers that was happening with this case. We had a father who was agreeing to extend visits and move this case forward but he was just not able to because of the nature of his work. That was for me one of the main things and also the language barrier for the child and that this was not really a reunification but an introduction to a family.

Annie Borton: Valentin, how was the communication with DHS and Jason before Toni joined the case?

Ian Griffin: [Foreign Language 04:51:14].

Valentin Rosales: [Foreign Language 04:51:15].

Ian Griffin: Well, the communication with DHS and the attorney, very good.

- Annie Borton: Jason, what is your perspective on it?
- Jason Pierson: I'm not a Spanish speaker. It's not the skill that I picked up. To be honest, I had to have several conversations with him in the courtroom or just prior to court with the assistance of an interpreter or just to be completely frank, a lot of our communication was via text. I was using Google Translate in order to communicate with him. I think that Toni's going to speak a lot about one of the cultural barriers being the fact that when the government is involved especially with someone who is immigrating to this country, that the first answer that you might get is yes to any question that you ask. That was my experience. It's not something that I really realized prior to Toni coming on. I think Valentin was saying yes to me because he wanted to be agreeable, he wanted to get his child back but maybe not having a full understanding of everything that a yes really meant when I was asking him questions.
- Annie Borton: Did the case worker speak Spanish?
- Jason Pierson: Their caseworker did not.
- Annie Borton: Do you know how they were communicating with them?
- Jason Pierson: No.
- Annie Borton: Or it's an assumption. I guess you don't know for sure.
- Jason Pierson: I don't. I don't know for sure but I think that it was very similar to me that everyone was trying to communicate with Valentin using the means that we have which are interpreters when they're available but the reality is that they're not always available. So, Google Translate is the best way to do that.
- Susan Mandiberg: Can I ask a question? Was there a way to verify that Spanish was actually Valentin's native language?
- Jason Pierson: When I first got on the case, the court does provide interpreters for the shelter hearings when they've identified someone as a non-native speaker.
- Susan Mandiberg: But I mean, it's not Spanish versus English, I mean, Spanish versus some other language that's spoken in Mexico.
- Jason Pierson: Only that he seemed to understand what was being said by the interpreter at that initial shelter hearing.
- Annie Borton: I think Toni can speak a little bit to this, maybe in Valentin and in other examples.

Toni Lopez: Yeah. I have had other cases where Spanish is not the first language, it is another native language from Mexico. I can't tell you how they determine that and how they verify it but I have been involved in other cases where we've had two interpreters. We've had an interpreter that interprets the native tongue or whatever that is and then like into Spanish and then into English. So, yes, I don't know the court determines but I think once we come in, they've already determined that.

Susan Mandiberg: And you accepted [Inaudible 04:54:25]?

Toni Lopez: I do want to touch on... That's a great question too because even though I'm a native speaker, Spanish is my first language but is from Cuba. Also, I can have other people that are from Mexico that are my clients and it doesn't mean that we are going to speak the same. For me, I always try to make sure that the client is understanding. If they use a word that I don't understand, ask for clarification. I'll use various ways of getting information back that have given to not assume that my client knows what I'm saying but for me to verify that they know what is being said to them, what is being required of them, what are we going to be next.

Susan Mandiberg: I apologize for... The assumption I made of Mexico was about given how many countries from Latin America are now represented, yes. So, excuse me for that error.

Toni Lopez: No.

Annie Borton: I think can maybe I think one of the things we've been asked elsewhere is what is the difference then they have a DHS worker and you're a case manager, how is that different? What does that role look like to you guys and how it's different?

Jason Pierson: I think that as far as the difference between a DHS case worker and the PCRCP case managers, to me, I think that it's incredibly important for some of our parent clients or the vast majority of our parent clients to have additional support outside of just DHS' basic referral services that they do. DHS often has a template list of referrals that they provide preparing classes, domestic violence classes, substance abuse which goes through the [Inaudible 04:56:23] program which I hope that you heard about here today. What really happens when you put a PCP case manager on board is they really get to know the client and all of their needs. Many of our parent clients have issues that go well outside of any safety issues for their child. The PCRCP case managers really get to know those issues, get to know these parents and really help to provide those additional services that I really think promotes stability in the long-term. Oftentimes when you've got a DHS case worker, they're just concerned about the safety because that's their mandate is to be concerned about what can we do to get this child back in the home of this

parent? Many times, there are just other issues that present themselves that can make a family much more stable. I think that's what specifically the PCR case managers can be a great asset to try and address those issues.

Annie Borton: I think maybe Toni touch on how overnight started with this family.

Toni Lopez: I want to kind of just, if I can take you back on that just a little bit.

Annie Borton: Yeah.

Toni Lopez: For me, the way that I see it is that I'm able to come in and work with a client on what barriers are coming up and do it in a way where there is a protected communication or protected interaction. It's not uncommon and again, I'm just talking specifically about my Latino clients but it's not uncommon that they are not savvy in how the system works overall here in the US. Like how do you enroll a kid into school, how do you make an appointment? Just all of these things that maybe to a kid that doesn't understand that this is like a complete cultural shock, they haven't navigated the system. They might perceive that as the parent may be having cognitive issues, other stuff that that's not that way. I can see what the parent maybe is where they're coming up short and assess that and help them through it without the threat of DHS making assumptions of the capacity. This is in a protective manner where it's not going to bring up other legal issues for them. That's for me, the difference between the case worker and then for us. That we can dig deeper into what these barriers are, how to work through them and my client is not in a place where they could potentially be seen as inadequate other areas that have not been brought up yet.

Annie Borton: Do you think you can speak to the overnights?

Toni Lopez: Oh, yes. We touched on there was a language barrier between the child and the parent. We had asked for the child to be enrolled into a Head Start that was bilingual so that she can start getting that exposure into Spanish. The case worker, you know, this dad had never parented this child, never lived in the same home with her. He was only having visits once a week for short periods of time. Because of the nature of his work, sometimes he would have to be gone for like a week and so maybe he'd missed a visit. There was not a lot of stability in that area. He also had his wife who his child had never met. We were at a place, I think, where this case was moving really quickly. The DHS worker came over. We did a walk through of the house.

The case worker is like, "Great, we can drop her off on Friday and she can stay the weekend." I'm like, "That's not..." I think for me, from my background being that I worked in dependency with the law firm, I'm like does the child's attorney know we're doing this, was my first question. Also, speaking to the case worker about

why don't we introduce the wife and do like a soft introduction before we just bring this child and drop them off? That could have potentially been disastrous for my client. Actually, after meeting the child, it would happen. She did not know them. She would have probably refused to come back if they would have done that. The other thing that we had talked about was something that his wife actually brought up that they don't know the child, what she likes to eat. What are the things like can we like do some preparation and make sure that she's like in an American home eating American food. They're Cuban. The things are not the same. To create the best environment for her and make it comfortable for her. But, yeah, I mean, I was glad DHS was ready to do that but let's hold up a little bit because that could potentially bring up a lot of other issues.

Annie Borton:

We only have a few minutes here. I'll ask one quick question and then I'll kind of...before we get to the very end here. But in terms of kind of... Now, I lost my train of thought there. You can talk about this case in particular or more generally but a lot of the work you deal with is sometimes reunification, sometimes another type of permanent plan. How do you deal with those conversations? Do you have...