

Jennifer Nash: Good morning, and welcome to the April 17th, 2024, meeting of the Oregon Public Defense Commission. This meeting was added to our schedule earlier this year to address primarily issues related to agency reporting requirements for the May Legislative Emergency Board and agency budget request to the E Board. We also have other important action items related to delays for PAE approvals, preauthorized expense approvals, and approval of commission bylaws that we discussed during our March meeting.

With that, we'll start with public comment. I want to acknowledge that we have received public comment for our consideration from Peter Gassner, an investigator, Lynn Morgan, attorney, Sal Peralta, Oregon Defense Consortia Association, Judge Judith Matarazzo. Sorry. Multnomah County Circuit Court. And Shaun McCrea, OCDLA executive director. I'm expecting public comment orally from Sal Peralta, James Comstock, Kevin Leik, and Judge Michael Greenlick. And with that, we'll start public comment. I see Judge Greenlick... Yes, he is here, and we'll start with him.

Michael Greenlick: Thank you. You were cutting out a little bit. Were you asking...? And can folks hear me? This is Judge Greenlick. All right, great. Thank you, Commissioners, for the opportunity to comment on the state of indigent defense in Multnomah County. It's a pleasure to be with you this morning. My name is Michael Greenlick. And since January, I have been serving as the chief criminal judge of our court. I've worked as a judge for over ten years now. Before that, I represented indigent clients for 28 years – first as a staff attorney at the Metropolitan Public Defender and later when I regularly accepted federal court appointments as part of my private practice.

I care deeply about indigent defense. It is a good day for me when I witness a public defender provider providing zealous representation to a client in my court. Yesterday, Presiding Judge Judith Matarazzo did submit a letter as public comment which provides a detailed history of how the indigent defense crises has been playing out in Multnomah County over the last two plus years. In approximately January of 2022 was the first month defendants appeared for arraignment and were told that there was no lawyer to represent them. By June of that year, we had 622 unrepresented defendants with cases pending in our courts. We realize that significant efforts have been made to fix what many consider to be a broken system.

Public defense are now paid more. Their case loads are smaller. OPDC has brought on a trial division with six lawyers in the tri-county area. Our public defender offices hired more lawyers. The maximum attorney case load system was devised to help assure lawyers had the time to provide adequate representation, and many more steps have been taken over the last couple years, including the development of a six-year plan that is in the works that will

hopefully restructure our system of providing services. But what seems to be missing from the court's perspective is any sense of urgency to fix the ongoing crises we see play out every single day in our arraignments courts.

Put bluntly, we are wondering where the 30 or 90-day play is to fix what is broken now. Currently, approximately 25 defendants appear in an arraignment court in Multnomah County on mostly felony charges every week and are told there is no lawyer to help them. Today, there are at least 575 unrepresented people charged with mostly felony cases who are awaiting a lawyer to be appointed. But this number vastly understates the extent of the problem because defendants regularly make motions to dismiss in Multnomah County after they've been required to return to court multiple times to see if we have a lawyer for them, only to be told on multiple occasions there is no help available.

And unlike other jurisdictions, judges in Multnomah County have been dismissing cases for defendants who have come back three or four times if they find that there has been...that those people have suffered an unacceptable level of prejudice. If cases were not being dismissed, I'm sure that we would have well over 1,000 defendants waiting for representation. But even accounting for dismissed cases understates the extent of the crises. Many defendants fail to appear for court when they are required to come back to see if counsel is available. Those folks are not included in the count, but they are folks who eventually bench warrants or cites in lieu of bench warrants were issued, and they'll ultimately be arrested or be required to come back to court.

And even if a case is dismissed, it doesn't end that case for many defendants because the district attorney's office...they're taking many of those cases to the grand jury to seek an indictment if a case isn't initially dismissed. And those defendants are often picked up on indictment warrants and come back to court, sometimes being told again that there is no lawyer to represent them. I am providing a basic summary of the sort of numbers of defendants who have not been provided counsel, but those are just numbers. I want to give you some idea of what we see every day happen in our court system. A typical felony case where we don't have attorneys for representation is an authorized use of a vehicle case, a stolen vehicle case.

There's a crises in Multnomah County, an epidemic of these stolen vehicle cases. Many folks when they're found in a stolen vehicle elude the police because of a belief that if they drive recklessly enough, the police will disengage from the chase. Those folks come to court on a regular basis. There is no lawyer. They're sent off. Then they pick up another unauthorized use of a motor vehicle case. Often times, accompanied with another attempting to elude a police officer, which is obviously a very dangerous situation for the entire community. And then it can happen again, and again, and again.

I recently had a case where somebody had eight of these separate stolen vehicle cases. And during most of that, the person did not have representation. What happens to that defendant is eventually a lawyer is appointed to represent them. If they had received an attorney to begin with, they would have qualified for one of our justice reinvestment programs and received intensive services through probation, or they would have qualified for our treatment court if they had substance use disorder. And they would have received intensive supervision and services through our treatment court program.

People can stabilize and do stabilize their lives, gain access to resources, turn things around when they have that sort of commitment from the criminal justice system to help. But if they picked up multiple cases – four, five, six, seven cases – the offer from the district attorney’s office is almost always that they be sent to prison. And so I recently sent someone to 70 or 75 months in prison because they had so many cases when at the beginning of the case they did not have any representation. This also has a significant impact on the community in ways that we can never really know. How many victims do not get their day in court when they get their stolen or been victims of other sorts of crimes?

How many victims would there never have been if somebody would have had an attorney to begin with and had assistance from their lawyer, and from the court, and from the Department of Community Justice in helping them or forcing them to turn their lives around? How is the community viewing...? How is the community to have trust in our criminal justice system when we’re in this sort of situation? I understand that the legislature has a difficult job, that they need to allocate resources and that there is a lot of important needs, including education, healthcare, housing, roads, everything else. But the Sixth Amendment to the Constitution provides a mandate – people charged with offenses must be given a lawyer.

I really don’t know how we ended up in this situation. I kind of understand how we ended up in it, but I don’t understand how there isn’t more of a sense of urgency to deal with the problem now. We know what a short-term solution might be. We know, for example, that when OPDC started paying lawyers \$200 an hour to handle the most serious cases in our community, we had plenty of lawyers coming forward, willing to take those cases. And we know... And so we’ve taken care of the problem with respect to many or most of our in custody defendants who are charged with more serious crimes.

But we just have this terrible situation that is ongoing with folks who commit less serious crimes or who should be in custody on less serious crimes and are being released because there is no lawyer to represent them. It is getting extremely frustrating for the court to be in this sort of legal purgatory situation

month after month and not having any sense that there is a sense of urgency about how to solve the ongoing problem that we're seeing right now. And so that is... The court really wanted to communicate this message to the commission because we understand many of our commissioners are new, and we really hope that emphasis is put on trying to solve this really important short-term problem that seems to be continuing month, after month, after month. Thank you very much.

Jennifer Nash: Thank you, Judge. I will say... I appreciate your comments very much. We, as a commission, during public comment can't really have a back and forth dialogue, but I wanted to just say a couple of things. One, I know you were present during our March meeting, and I appreciate that very much. And we would like to invite you to have a more robust presentation if you would like the opportunity during our May meeting or at any subsequent meeting that works for you. We think it's important to hear from you and be able to engage in a discussion about these issues because they are very important, and we do want to hear from you. So, please take us up on that and let us know when works for you, and we will make sure you're on our agenda.

But I also want to say that the unrepresented persons crises is this commission's highest priority, and we recognize the issue. I will say, respectfully, it's not a short-term issue. It's a long-term issue, as you know. You alluded to that when you said it started in August of '22. And we know. All of us are dedicated and committed to trying to resolve it, and that's why we are here. The only thing I want to convey is that there is a sense of urgency for us, and we are doing everything we can. But everyone... We're open to everyone's ideas of how we can solve this, so please come back and talk with us to have a more lengthy and more full discussion. And thank you very much for your comments.

Michael Greenlick: Thank you, Commissioner Nash. I look forward to that opportunity. I will certainly make myself available. Thank you.

Jennifer Nash: Thank you. All right. Sal Peralta?

Sal Peralta: Good morning, Chair Nash and members of the commission. My name is Sal Peralta. I am the executive director of the Oregon Defense Consortia Association, which represents private bar attorneys and consortia that hold public defense contracts with the state. Our association has grown from 140 members to approximately 200 members in the last four months, in large part due to concerns that the agency is disregarding the needs of the current private bar workforce in terms of both its current operations and in its future planning and budgeting. Yesterday, I sent my written report to the chair and to the members of the board. I highlighted several major concerns that will relate to different conversations you'll have today.

Some of those emails were returned, so I resent them to agency staff this morning, and I hope those materials are helpful to your deliberations. Regarding the Moss Adams six-year report and the agency's draft report, there is a significant concern that the agency's current draft plan will create a two-tiered system of public defense that's inequitable in terms of its compensation and working conditions for the current private bar workforce and that this will put downward pressure on the number of Oregon Attorneys willing to take public defense cases. There is a concern that the agency and its consultant are attempting a rapid transition to a much more expensive model of public defense, while underestimating and downplaying both the costs and disruption associated with this transition.

As we just heard the judge clearly elaborate and articulate, there is a crises now. Our view is these changes will likely exacerbate Oregon's current public defense crises and continue the agency's long-term pattern of relying on crises budgeting to address predictable budget and staffing shortfalls that negatively affect clients and the thin line of attorneys and investigators who are willing to take on this kind of work. We, again, reiterate the recommendation that the commission slow the agency down and take ample time to review and approve or reject each of these processes.

Please work to ensure that the cost and other assumptions they rely on are data driven, accurate, and truthful. Please direct the agency to ensure that the changes happen in a more thoughtful and inclusive manner that doesn't disrupt the delivery of public defense and that takes into account the concerns and the reality of the existing workforce. Thank you for your consideration and for your service to the state.

Jennifer Nash: Thank you for your comments. James Comstock?

James Comstock: Good morning. Chair Nash, members of the commission, Director Kampfe, my name is James Comstock. I am an investigator. I'm cochair of the OCDLA Investigator Committee and a charter member of Defense Investigators of Oregon, associated with the Industrial Workers of the World. May I share some prepared comments today, and I may editorialize a little bit on that just based on some things we've heard this morning. But I wanted to talk about how the continued payment and approval delays continue to material impact defense in cases.

We're seeing the slowest payment periods in four years, and we are seeing unprecedented delays in approval of requests for funding and services necessary to basic criminal defense, including things as simple as authorization to travel within Oregon to visit our own clients – something that should require

little to no review or approval. I want to take you back to July of 2019. At that time, OPDS, as it was known at the time, had four positions in accounts payable. Payments were generally processed within eight to ten business days, and invoices were carefully audited, as demonstrated by invoices which were sent back for errors. Requests for funding were approved within a week or sooner.

By April of 2022, OPDS had received additional funding from the legislature, and accounts payable was increased to nine positions, more than doubling the positions. Since that time, the agency has been unable to sustain payments in less than 30 days for any sustained length of time. We do know why this problem...we don't know why this problem started or why it persists. But, frankly, we're no longer interested in hearing excuses or reasons for the delay, which have ranged from COVID, to wildfires, to not enough office space, to poor staff morale, to a train derailment near the office, to snowstorms, ice storms, staff vacation, and even blaming regularly scheduled holidays. I have proof of every one of these excuses sent to me in writing over the last four years.

Beginning with statements made by Lane Borg in 2020, going all the way to the present, we've been repeatedly told that improvement was imminent. Beginning on October 2nd, 2020, I began asking the agency and the commission in writing to implement required emergency plans to continue the business of paying and processing payments in times of crises. I've repeated this request in writing at least six times since then. Happy to share those requests with you if you'd like to see them. To date, there is still no implemented plan to address workplace crises and to continue payment and request processing. Any reasoning for this continued delay now rings hollow.

One thing that we have noticed lately, which is most troubling, is the fact that we are seeing invoices and requests sent back for what are, frankly, pedantic reasons. Providers have had invoices sent back because a mailing address was left off of the invoice. The vendor number was included, which is inherently connected to all the vendor's information including the mailing address, which isn't even used anymore because OPDS doesn't do business by mail. My colleague, Noran Van Dusen, who wanted to comment today but wasn't able to due to other commitments, asked me to convey an example that she recently had. Approximately a month ago, she submitted a request to visit her client in southern Oregon.

Just a few days ago, nearly a month later, that request was rejected because she had used the CSS form rather than the new form, which appears to only change the name of the form. There is not material difference in that form. And so she has to start over again. And this is to see her client. This is not a unique example. This is happening every day, all the time. You'll see this in Ms. Morgan's comments as well. While we don't know why the agency is struggling

to complete timely work with more staffing than ever before, we can see that staff are auditing for matters like inclusion of mailing addresses for which there is little, if any, reason to spend time checking.

I call on the agency to have an independent third party perform a performance audit on invoice and funding request processing as soon as possible and to quickly implement changes to rectify the situation. Four years of promise from the agency with no sustained improvement despite more than doubling the FTE is too long. In closing, I just say to this agency, I want to see OPDC succeed. I know that these problems predate almost everyone who's in charge now. But the fact remains, this isn't about people. This is about an agency, and the agency needs to fix these problems, and, as Judge Greenlick said, with urgency. Thank you. I appreciate everything you do, and I know you're trying with us. We're asking for some more. Thank you.

Jennifer Nash: Thank you, Mr. Comstock. Kevin Leik. Is it Leik?

Kevin Leik: It's actually Leik, but...

Jennifer Nash: Leik, I'm sorry.

[Crosstalk 00:20:02]

Kevin Leik: Chair Nash, esteemed members of the commission, I'm Kevin Leik. I am the director of Clackamas Indigent Defense. We're the state's largest consortia...we're the second largest criminal defense entity in the state. And since 1985 or so, we've been the primary provider for public defense services in Clackamas County. Listening to what we just did and taking a look at what's been going on in the press over the last year, it's been all bad news all the time, so I wanted to pop in just give you some positive news about what we've done in Clackamas County. And to provide a bit of context for that, in the last contract cycle, we didn't have enough attorneys. Like a lot of offices around the state, we ran out of attorney capacity in April of 2023.

We saw it coming, and we had a plan in place for it. So, in Clackamas, we never had any in custody defendants who were appointed counsel. We had a lot of people hit the list as out of custody, unrepresented. So, when that contract was ending, I met with our OPDS rep, and we broke down the numbers, and we knew exactly how many attorneys we needed to stop adding to the unrepresented list. We were lucky enough to find a receptive ear, and we had candidates ready to accept positions with us. So, when the new contract was signed, we had enough attorney capacity to handle the incoming caseload.

We spent a couple of months making sure we were able to handle that load. We've been at 100% of our contract each month since it began in I guess October, though we got the new people that we needed starting in July. That wasn't doing anything to clean up our county's list of unrepresented persons. So, late last fall, I reached out to our members, and I asked if they would be willing to take on a small number of extra cases as hourly [Inaudible 00:21:38] just to clean up that backlog. We didn't let new attorneys take the cases, and some of the members felt they couldn't handle additional cases. But overall, the response was pretty positive.

And for those attorneys who were willing and felt they had the capacity, we started assigning a few extra cases to them each month off the unrepresented list. And over the course of the next several months, we took big chunks out of that unrepresented list. This is the good news – we just wanted to let you know that as of February, we have managed to clear the entire unrepresented list in Clackamas County. That means there are no unrepresented in or out of custodies in our county. We've managed to do this while still meeting our contract, 100% of our contract, each month. I'd like to point out also that we've done this ethically, and I feel like I have to say this because when we discussed this issue with OPDC and with some of the other organizations, there was a clear implications that they felt if we were taking on these additional cases we couldn't possibly be doing our work ethically.

And it's just not true. When attorneys take on too many cases and they're overwhelmed, and they're being forced to behave unethically, they cut corners, and that's really obvious in the data. Where it pops up is people will conflict off cases at the last minute, or they'll brow beat their clients into taking bad deals instead of going to trial. Or if, God forbid, they have to try a case, they do a bad job at it. These things, again, it would be obvious if they were happening, but they're not. I monitor withdrawals on cases as part of our regular performance reviews. So, if people were suddenly getting out of cases at the last minute because they were unprepared for trial, it would have shown up in the data. We don't have anything to indicate that that's been happening.

As far as brow beating people into deals, we don't see that in our data either. CIDC attorneys in Clackamas County, we've always tried cases at a high rate compared to other organizations in the state. Those numbers have not changed. We continue to try cases at a high rate. But most telling and I think most important, if you look at how we've done when we've gone into trial, it's really been extraordinary. Over the last year and a half or so, if you look at the combined number of just outright wins in cases, in other words clean walks, and you add in the number of cases where we announced ready for trial, and the state was forced to dismiss the morning of trial, we have an acquittal rate that has consistently hovered for the last year and a half around 50%.

The national averages for acquittal rates are generally estimated at 5 to 10%, so we have been absolutely smashing that number. The work that we have done in Clackamas County is simply extraordinary, and I am very proud of the people that we have in our organization. We have been very ethical, and we have been very affective. The reason we've been able to pull this off is because we have very committed and experienced attorneys. Most of our attorneys do this work full time, and they've stuck with this line of work for years because our business model, as a consortium, allows us to pay them a good wage despite the fact that we're receiving less money per attorney than is being paid to the nonprofit statewide.

At present, that model is under fire as OPDS is really trying to kill off consortia, but we'd really ask you to take a look as you're making decisions in the months ahead at the success we've had in this county and ask yourselves if the decisions being made by the agency really are in the best interest of the defendants in this state or in the best interest of the Oregon taxpayer. Thank you for your time.

Jennifer Nash: Thank you very much for your comments. I appreciate it. All right, I don't have any other public comment requests, and we will move on to the next agenda item, which is approval of the legislative reports. Director Kampfe and Ms. Taylor

Jessica Kampfe: Thank you, Chair Nash and members of the commission. I am going to actually defer this to Ms. Taylor, as she is the subject matter expert who put together these reports for you all today and will be able to walk you through them.

Lisa Taylor: Thank you. For the record, Lisa Taylor, government relations manager for OPDC. So, before you today, as background, the commission has been directed to submit a number of reports to the legislature. And for May legislative days, the commission will be submitting the following reports – the Executive Transition Report, the Quality Management Plan, the Remediation Plan Version Three, and the FCMS status report. These reports are due to the legislative fiscal office by April 29th in order to be heard for May Legislative Days, which are May 29th through 31st. I thought we would just go through the reports one by one, and then I believe we can do a motion to move all the reports together or, Chair Nash, if you'd like to split them up, you're welcome to do that as well.

Jennifer Nash: Actually, I think that it might be easier if we take them one at a time. So, perhaps if you can go through the report and then also as part of your presentation explain the methodology for how the reports were developed, and then we can open it up for commission questions or comments. And then we

can take up the action items for the reports at the end, but I think it makes sense to go through them one by one.

Lisa Taylor: Great. Yeah, that will work. So, just in general for how they were developed, we did them through kind of a work group process one session and did, I believe...the following week after session we got together with the agency subject matter experts in the various areas, and we had kind of a timeline put together of we had about a month before they were due to the commission meeting. So, get a work group together, talk about what needs to be in the reports, draft the reports, review the reports, get the reports to myself, and Director Kampfe, and Eric for final review so we can get them to the commission. So, that was kind of the general process. Why don't I go ahead and start with the Executive Transition Report? I believe all of these reports are in your materials. Would it be helpful if I shared a screen so people could see the reports, or should we just go through, Chair Nash?

Jennifer Nash: It looks like I'm getting some nods for wanting the reports to be shared.

Lisa Taylor: Great. Just a moment. Okay. Here is... Can we all see the Executive Branch Transition Report? Great. So, this is our Executive Branch Transition Report. This comes from a budget note that was directed from last session, the 2024 session, and the report is due in May, and we'll be in turning in another version in September to the Emergency Board. And this is just about the status of the agency transition from the judicial to executive branch of government, as directed by Senate Bill 337. And it's supposed to cover the scope, schedule, and cost information. We have... You'll see that we have the table of contents, and so I will just start going through here. Our executive summary seeks to just summarize where the scope, schedule, and budget is.

You'll see that we are within scope, although the scope of this project is rather large. Really anything that's necessary to make sure we have a smooth transition to the executive branch is within scope. Our schedule...the report includes detailed schedules within each work area transition team, and part of this transition is also the quarterly gap analysis that we're doing, which actually will come up during our requests that we're putting in for the May Legislative Days. And that gap analysis is basically we have various areas throughout the agency, where we are today, where we need to be in order to successfully transition, and what that gap is, and what we need to fill that gap. Our budget...we're within the budget.

We have a five million dollar special purpose appropriation that supports this transition, and we're well within that SPA allocation. The budget is later on, but I believe we have about 1.2 of that spent from last session. And then we go through the transition teams, which are the kind of work teams that we've

established. They focus on administration, information technology, human resources, procurement, and finance. And each team is working to align the policies and procedures with the executive branch standards. We outline our major risks that we're encountering, and I think our major risks exist within information technology and procurement.

The information technology risks are definitely being mitigated because we're working with DAS CIS. We have a new CIO, and we've brought on some contracted project managers. And we're also requesting some procurement positions in the 2024 May E Board that's coming up, and you'll hear more about those later when we talk about our requests. We also have a section that covers the work Moss Adams is doing in our consulting, providing both the organizational strategic plan and transition management. And then we have the...kind of actually the second half of this report really deals with our IT transition and what our IT team is working on.

So, again, this overall schedule is more of a broad schedule. It includes just our initial conversations, which date back all the way to May 2023. And then kind of these larger groups of work that we're doing, mainly around the gap analysis. So, pretty much quarterly, we're working in these work teams, and they are updating the gap analysis to say, "Okay, well, we've covered this much of the gap. This is the next step that we need in order to cover the rest of the gap, and we'll be doing that quarterly." You can also see that we have our strategic planning work in there and the transition work that Moss Adams is doing. If folks have questions or want me to slow down or speed up, please let me know. And then, again, yes, our budget is on track.

We've requested about 1.2 million from that SPA that we got in 2024. Well, we got 1.2 million from the SPA in 2024. We have the request coming that that you'll be hearing about later, which I believe is 1.9. But please don't quote me on that. I don't have that paperwork in front of me. And then, again, we requested the 500,000 for the Moss Adams contract from that SPA, but we were actually given just non-SPA general funds. So, we have even more of that executive SPA remaining than we thought we would. So, our transition teams are broken up into those teams that I mentioned, and... I should have mentioned in this in our executive summary – we're basing our goals for this transition heavily on a January 11th letter from the governor's office about her performance expectations for various agencies.

And that's linked in the document. So, if you'd like to go read the entire letter, you can. There is also an actual website on the DAS website, the Department of Administrative Services, that goes into detail about all of these expectations. And so what we've done is we've taken those expectations from the governor's letter – these are these – and we've assigned each expectation to one of these

work teams. Then we've also identified agency areas of work that we just know we have work to do to get up to standards.

And we've assigned those to work teams as well. So, our first work team is administration. They are working with Moss Adams on the strategic plan, which will include DEI, which is a directive of the governor's expectations. We're working with the commission...they'll be working with the commission to perform a review of the executive director, which I believe is planned for later this year. Yeah, it's right here in our timeline here. They're going to be reviewing and updating administrative policies as needed, and developing administrative rules as needed. And an agency emergency preparedness plan, which is also a governor's expectation.

And then you can see a general timeline of when we will be doing those activities, along with the gap analysis that will be coming for Legislative Days. Under human resources, again, they're going to be reviewing and updating the policies, updating the organizational charts, reviewing position descriptions to correctly align with CLAS and COM standards [Phonetic 00:35:02], develop an employee onboarding process, employee satisfaction plan, which is a governor mandate, I believe. Employee development plan, training plan, and then feedback process, and agency succession plan, which is a governor expectation. And then they'll be reviewing and updating the DEI plans that are coming out of our strategic plan with Moss Adams.

We also have a facilities team, which is working with DAS to lease...well, they already worked with DAS to lease the Northwest and Southern trial office spaces. They'll be, like all the teams, writing and updating policy to align with the exec branch and just generally helping us open offices and manage those new spaces. Procurement is definitely our largest area. And, again, you're going to be hearing a lot about procurement today. It comes up in various spots. Because the agency has been exempt from procurement statutes since, well, its inception, this has kind of led to us being pretty far out of line with... Yes, Chair Nash?

Jennifer Nash: Oh, I'm sorry. I was going to wait until you took a breath.

Lisa Taylor: Sorry. [Laughs]

Jennifer Nash: Maybe if you can explain what procurement means and how it relates to the agency, that might be helpful for people who are not used to that kind of process.

Lisa Taylor: Yeah. I will do my best. I'm not the procurement expert, which is why we're requesting procurement experts. [Laughs] But procurement is basically the

process of contracting. The Department of Administration Services and the executive branch of the state as a whole has a lot of rules around how the state does contracts – whether that's like our contract with Moss Adams or our contracts with our providers. There are just a lot more, well, rules that go into the process, and standards, and procedures. And up until this point, we've been doing our own procurement through our own systems.

And when we move into the executive branch, we're going to need a lot more structure and people who know those executive rules and know kind of the process that goes through. What we've also found while looking at this kind of...the work being performed, because that was a big body of work that was done by HR and our resource council, along with our policy analysis and our program analysis, was basically that over time, the type, and amount, and quantity, and quality of work that is being performed by what we're calling the trial and support team, which is within CAP...basically it's completely changed since the time when we were just doing pay per case and our contracts were pretty straightforward. It looks very different than it did.

And that body of work is still being done by that same group of people. So, basically, that group is doing both contract management and also customer service of the people who are under contract. And those are really two separate bodies of work. And our goal is to break that work up, A, because as we move to the executive team, we're going to need procurement specialists, but, B, because they are just two very different and very large bodies of work, and we think things will operate better when they are separated.

Director Kampfe, feel free to jump in if I am misspeaking at all. But that's kind of what our procurement section talks about. Then we also have this timeline of how we're hoping to move forward with our procurement. As you can see, we're going to be working with DOJ to develop the '25-'27 provider contracts, and that has a lot to do mainly with the fact that we're going to have to follow executive branch procurement rules, and that will be the first time for us. So, we're going to need some outside help to kind of guide us.

Then we move into risk. DAS has a lot of risk management we don't have, and we just want to make sure we're kind of aligned with their rules around risk of making sure our insurance is correct and that we're tracking risks to the agency in the way the executive expects. Then our budget section, we already operate under DAS accounting policies and rules. But moving forward, we're going to be participating in the executive branch development process. We're actually... This has a lot to do with how we work in the governor's budget and following those timelines. So, we're actually kind of doing a...

I don't know what the correct term would be. We're like ghost following the executive process right now since we'll be in the governor's budget in January. But as the governor builds her budget, we're not in the executive branch. So, we're working with the CFO right now on their '25-'27 exercises, even though we're not technically in the executive branch. This budget also includes the DAS population forecast, which is misspelled. So, that will be a correct.

Then we have the Moss Adams organizational development consulting. I think you've heard quite a bit about Moss Adams already, but they are doing this development consulting with us to develop a strategic plan, which will, again, take into that consideration that January 11th memo from the governor's office. They're also doing the implementation plan of how we're going to do operational and change management from the judicial into the executive branch. And we've discussed this before, but the Moss Adams contract is for \$250,000, with a not to exceed up to \$500,000.

This will allow us to bring in short-term or limited duration positions that they can fill. So, if we just need to bring in a project manager for a three-month stint to do something, Moss Adams will be able to provide that service for us within the contract. Here is their timeline for Moss Adams. Then the rest of this report is about our information and technology transition. It actually goes through the scope, schedule, and budget separately because it's such a large area. We thought it kind of needed its own section.

But you can see here, it's following a pretty similar timeline with the GAP analysis, and they get positions through the GAP analysis. They implement those positions. They reevaluate what they need for the next round, and then we go back to the legislature and request. It's an iterative process. This timeline does go until July of 2025 because we will be under the OJD IT contract until the end of June of 2025, so this timeline goes a bit longer than the normal January of '25. And that is the end of our Executive Transition Report.

Jennifer Nash: Are there any questions or comments from commissioners? I realize I can't see everyone, so let me try and fix that. Actually, could you stop screen sharing?

Lisa Taylor: Yes.

Jennifer Nash: Okay, that would be helpful. All right. Any questions or comments?
Commissioner Buckley?

Peter Buckley: Yeah. Thanks, Madam Chair. Just a quick comment on the quality of these reports. I'm very pleased. We joined the commission in July of 2022. I haven't seen anything like this from the agency until now. This report and the other reports that we're seeing today are detailed. They give us information we can

work with. I just want to compliment the agency for the effort in spelling this out. I do have questions on several of the reports that I'll hold until we get to those reports. But I just want to compliment the effort and the clarity with which the information is being presented.

Jennifer Nash: Thank you. And I forgot I'm supposed to call people by their first names, so I'm going to work on that. Rob?

Rob Harris: Thank you, Jennifer. So, a quick question on the task. I think this is page... I don't know. Anyway, it says, "Work with DOJ to develop '25-'27 provider contracts." And I'm assuming that's the provider contracts for the next biennium. It says it ends on July 2025, but that's actually when the contracts are supposed to be in force. So, I'm assuming you're going to be developing those and have those available well prior to July 2025?

Jessica Kampfe: Thank you, Commissioner Harris or Rob. Yes, we've started the work with the Department of Justice. We've reached out to start talking to them about provider contracts. And we will need to, for the first time, go through legal sufficiency review with the Department of Justice prior to those contracts being put out for bidding. So, we would expect that the contract development would happen by this fall, and we'd be going through that legal sufficiency review in the fall of 2024 and able to bring that information in front of the commission in early 2025. And, Mr. Deitrick, do you have any corrections to that?

Eric Deitrick: No. Now I'm confused. Jessi... Director Kampfe, no, I do not. We're starting out working with the General Counsel Division through the Department of Justice before we move on to their contract experts, so we've had some initial meetings. Yeah, this is going to be a lift. Rob, to your...I guess to get to one of the bigger picture items for the contracts. What we're really going to try to do as we move into the executive branch and follow their procurement rules is make our contracts really the nuts and bolts of the legal relationship between the agency and the public defense providers, and get the performance standards that are currently embedded in the contract out as policy independent of the contracts but connected to the contracts so the contracts are cleaner.

Jennifer Nash: Thank you. Senator Prozanski.

Sen. Floyd Prozanski: Thank you very much. Mine is more of a general comment on the next presentation. I'm hoping, Lisa, if you could just enhance it so we can see it a little bit easier, it would make it a little easier to follow. Thank you.

Jennifer Nash: Thank you. I have a couple... I have really just one comment about this report, and that is that it's very... Well, two comments. One, it's very good. Very

thorough. Thank you. The second thing, though, from just an information standpoint, I really appreciate and like the timelines that are in the report, the start and end timeline. But what I think might be helpful is where we are in progress or if we've already passed a deadline, if that's actually been completed so that there is some indication about whether we're on target for the things that we said we were going to do by when we were going to do them.

Or if we're in the middle of like... I'm just picking one. For example, project for Moss Adams, project kickoff, agency/staff input, commission input analysis, start March, end April. So, where in that process at the time of filing the report is the agency? I think that would be really helpful. And also for things that we were supposed to have already done to just indicate that, yes, those were completed.

Lisa Taylor: Yeah, I could definitely add a status column. That wouldn't be difficult at all. Just saying not started, in progress, or complete. And that's the point of this feedback. So, if you'd like me to add that before we submit, I'd be happy to do that.

Jennifer Nash: I think that would be very helpful.

Lisa Taylor: Great.

Jennifer Nash: Addie, did you have a comment?

Addie Smith: I was just going to ask, although I think that column is sufficient, if there is a way to do some Gantt charts on something like this for those of who are visual. But if it's going to [Distortion 00:48:01] a whole host of new knots to untangle, that'd be unnecessary. But it would sort of get a visual of what Jennifer is requesting in a way that's really nice.

Lisa Taylor: And we do actually... I have Gantt charts of these. I'd be happy to share them. They looked a little messy in 8x11 form, and that's why we put them in this column format instead.

Jennifer Nash: Maybe have them as an appendix. Because you submit these electronically, right?

Lisa Taylor: Yes.

Jennifer Nash: Yeah, so if you submitted them as an appendix to the report then somebody could just pull them up and look at them.

Lisa Taylor: Okay. Great.

Jennifer Nash: Thank you. All right, did you want to move on to...? Well, first, are there any other comments or questions about the Executive Branch Transition Report?

Peter Buckley: Brook has his hand up.

Jennifer Nash: Oh, thank you. I see Susan pointing, but it's a different direction than where I... Sorry, Brook. Your hand is like in the yellow part of your...

Brook Reinhard: I figured your screen was...

[Crosstalk 00:49:00]

Jennifer Nash: ...screen. Go ahead.

Brook Reinhard: Okay. Maybe I should move that then. Thank you for this presentation. I think my biggest question has to do with contract timelines. This is a little responsive to something that Judge Matarazzo...sorry if I'm saying his name wrong...had regarding contract workload. One of the reasons, I think, that providers have such a hard time filling all the unrepresented numbers is the MAC numbers were never a realistic number for a full provider workload, and it always should have been an open case capacity workload. One of the reasons we never got that is in previous contract timelines, the contract was handed to providers far too late to have the sort of negotiation that could have taken place to get open workloads. So, given that... That's my belief, anyway. So, given that, my question is in working with OJD, are we going to get to a place where contracts...finalized contracts are not given to providers like two weeks before the new contract is supposed to start?

Jessica Kampfe: Thank you, Brook. We're working with the Department of Justice, not the Oregon Judicial Department on the contract development, and we are looking at trying to remove a lot of the policy pieces of the contract and put that properly in policy documents and really streamline these contracts so that they're going to be much more about the legal relationship between the agency and the provider and not about the performance standards. Those will be referenced in a separate document. We would expect that the contracts will be largely written by this fall and then go through a legal sufficiency review in the fall and be to the commission in the early part of next year.

I think that is probably a separate conversation than the conversation about annual caseload or a workload model. We are currently budgeted based on the MAC model, and our current service level budget is based on the MAC model. So, any change away from MAC and to a different caseload number, for example adopting either the Oregon or national standards, or an hourly number

that would be akin to a workload, is the sort of thing that would have to happen as the development of a policy option package that would then be presented as a request to the legislature in the next legislative session. And I believe that the commission is going to start that conversation at their next commission meeting in May and then provide the agency with direction about policy option package requests at the June commission meeting. So, I think we're going to have future opportunities to have that conversation.

Brook Reinhard: Thank you.

Jennifer Nash: Thank you. Other questions or comments about the executive branch transition or anything related to that? Senator Prozanski?

Sen. Floyd Prozanski: Yeah, Madam Chair. I think you're probably getting ready to go to the next report. I'm just going to suggest that since we've completed this report and it's fresh in everyone's mind that maybe go ahead and take the action item for this particular report and then go to the next. And that way, it won't be confusing after we get through multiple reports.

Jennifer Nash: Excellent suggestion. Thank you. All right. And I will entertain a motion to adopt this report with the addition to the Gantt chart, and the appendix, and another column about status. Commissioner Mandiberg makes the motion. Is there a second? Oh, wait.

Susan Mandiberg: I'd like to make another comment before that.

Jennifer Nash: Okay.

Susan Mandiberg: Because I was going to hold this until we were discussing all of them. But it's a comment I'm going to make about all of them, so I'll just do it separately. I hope that someone sends this through both a spellcheck and a grammar check for coherence before this gets sent to the legislature. I may be just a really annoying geek about these kinds of things, having spent my career trying to teach people how to write in a way that communicates. I was really annoyed in all of these reports by the spelling errors, the omitted words, the acronyms that were sometimes different.

Not in this report but in, for example, the Quality Management Plan report. And I think that if the report isn't correct in terms of spelling, and grammar, and punctuation, it makes it harder for people to trust the content of what's being said. I would like to see more care taken with those things. So, if that could be added to the list of tasks before this goes out to the legislature, on that basis, I'm happy to move to approve this report.

Jennifer Nash: Point very well taken. I actually had... This report was not... I mean, there were a couple of typos, which I would hope, again, as you suggested, would be run through spell check and grammar check. This report was not bad in that regard, all things considered, but there were other ones that were just awful, and I had a very difficult time even reading for content, as Susan has indicated. I have notes about those reports in general. But I will say... Or I mean those reports specifically. I will say also that thankfully I do... I made a request of Addie to take on the chair role for the subcommittee for...the legislative subcommittee, and she has agreed to do that. I think that will really...

And she's going to be recruiting people, so think about that. I think that will really help, too, because the... I imagine or I would hope that the process would be for the next iteration of these reports, they would go to that committee who would be able to do that hopefully second round of vetting. Because, frankly, nothing should be coming to us that you don't consider to be in final draft form, and I would say that many...at least two of these reports, to me, look like they were first drafts and should never have come to us for consideration. But the subcommittee will be able to hopefully deal with those so that the next round in September of reports that we see should be very different in terms of quality. Addie?

Addie Smith: My comments are going to be even more fun in light of that. What I was going to say is actually as someone who has done quite a bit of legislative work and writes very much the way a lot of these have come to us, I would suggest that one of the things we'll tackle in the legislative committee is perhaps not being the copy editors but working with the agency to come up with a process that involves a fresh set of eyes reading them before they come both to the legislative committee and then on as a best practice. I'm very leery about sort of micromanaging the work of the agency, as all of you know, but I do think that that's probably just a best practice, and it's a practice I have had to utilize frequently in my own professional life.

Because this report looks very much like what my first draft might look like. I am no Susan when it comes to writing. [Laughs] But I'm happy to take on the sort of ore of making sure we have a process that gives us things that read more clearly. Because I do think the point is correct, that if you're too distracted by the quality of writing, you're missing the content then that's when we've bumped up against a barrier.

Jennifer Nash: Thank you. I think that's an excellent suggestion and an excellent idea. I had an unrelated question that I just want to address to the group in a private chat about the number of commissioners that are present. And for quorum purposes, we only are counting voting members, so I just want to note, again, for the record that we do have a quorum of voting members that are here, so

we can, I think... Hold on, wait. One, two, three, four, five. Yes, more than a quorum. So, I just want to note that. All right. With that, I would entertain a second to the motion to adopt the Executive Branch Transition Report. Rob Selander seconds that. And I think because we're video, we decided that we need to do a roll call to make sure that we have a sufficient number of people that are here who are voting members to vote. So, Mr. Detrich, if you could conduct the roll call vote.

Eric Deitrick: Certainly. Chair Nash, how do you vote?

Jennifer Nash: Yes.

Eric Deitrick: Commissioner Selander?

Rob Harris: Yes.

Eric Deitrick: Commissioner Smith?

Addie Smith: So sorry. Yes. [Laughs]

Eric Deitrick: Commissioner Buckley?

Peter Buckley: Yes.

Eric Deitrick: Commissioner Parrish-Taylor?

Jennifer Parrish-Taylor: Yes.

Eric Deitrick: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Eric Deitrick: Commissioner Liniger?

Tom Lininger: Yes.

Eric Deitrick: Commissioner Harris?

Rob Harris: Yes.

Eric Deitrick: Commissioner Harvey is absent. I think that is everyone.

Jennifer Nash: Thank you. With that, the motion passes, and let's move on to the next report, Ms. Taylor.

Lisa Taylor: Great, thank you. The next report I'm going to move on to is the quality management report. I'd also just like to flag the fact that this is scheduled until 10:15, and we have three more reports. So, just...

[Crosstalk 01:00:01]

Jennifer Nash: Yes, we're not... I had already... Thank you for noting that. I had already decided that the timelines were probably insufficient to go over the reports, but I also noticed for election of the vice chair, we have 20 minutes allocated, and we're not going to need 20 minutes. We're going to need about 45 seconds, I think.

[Crosstalk 01:00:18]

Jennifer Nash: So, I think we'll make up the time. But thank you for noting that.

Lisa Taylor: Okay. Thank you. I'll move on. I'll share my screen here. Great. The quality management report. And this will not... There we go. Okay. Okay. Is that large enough for folks? Okay. So, our quality management report comes from a budget note that came from 5532 in the 2023 session. The Public Defense Commission is directed to report on the Quality Management Plan for public defense and associated key performance measures and indicators. The commission is directed to submit a report to the legislative session in '24, and then the chair and executive director were directed to report on existing performance measures. So, we submitted a version of this plan during the 2024 session, and out of that plan we were directed to submit an updated quality management report or plan and propose key performance measures to the Emergency Board in May of 2024.

And so this report, the goal is to outline the work in progress to date made by OPDC towards building and implementing the Quality Management Plan, and it largely discusses the development and maintenance of performance metrics. And so we'll get into the executive summary. The executive summary talks about House Bill 5030 from 2021, which established the Compliance Audits and Performance Division or CAP. And CAP, as you can see, was directed to do vendor contract compliance, auditing of expenditures related to vendor contracts, internal auditing of agency expenditures, research and analysis, and the development and maintenance of performance standards including key performance measures and supporting key performance indicators.

We discussed what quality management has looked like to date. And in this, we talk a little bit about what the CAP Division looks like and how functionally CAP is working through... We have the teams...the trial support and development team, which is our resource council, along with the program analysts who are

actually technically in the administrative division but work with the CAP attorneys.

And then we have the research or the data team, which is research, and then we have the policy team, which is the administration and policy writers within CAP. Again, we talk kind of about the procurement issue that we talked about before and how the work has really increased for this CAP group. And we talk about the following actions that we're taking. We've moved the contract amendment process to a quarterly schedule, which minimizes changes in the administrative burden of pretty much constant contract amendments, and we've requested procurement staff, or we will be requesting. We requested it during the 2024 session, but we weren't given those positions, so we will be re-requesting.

Then we talk a little bit about how it's kind of a case study, I guess, about some work that the CAP Division is doing around our THIP cases. This is about... I think you'll probably hear more about this in a future presentation to the commission, but it's kind of a... Oh my gosh, I forgot the word. A pilot program that they're doing for THIP cases where they're going to be able to automatically enter data at the court about an in custody person, and that's going to automatically do a bunch of processes here at the agency, which is going to cut out a lot of time and process that was being done by hand or by a person. And so that's kind of just an example of one of the goals of CAP. And once we get CAP up and running, we're going to be able to do a lot of this kind of automated process and efficiencies within the agency.

And we'll keep moving down. Sorry. So, the first thing we're going to talk about and the major focus of this report is the development and maintenance of performance measures. Our goal is to establish a comprehensive plan for developing and maintaining performance measures to ensure all recipients of public defense services in Oregon receive constitutionally competent and affective legal representation. And why we're starting with these standards is because we really need to go in this order of what are we measuring, which are the standards, how are we going to measure those standards or metrics, and what happens when those metrics aren't meant, and that's training. And so we kind of need to go in that logical order.

Again, we have this kind of timeline chart. I can, again, add a status column if that would be helpful. But this includes our objectives and then how we're going to carry out those objectives. So, right now, we're working on core staff qualifications and performance measures. And then after that, the trial support team is going to start working on attorney qualifications and performance measures. And then once those measure are established, they're going to start

working on performance metrics and how we're going to measure those performance measures.

And then once those are established, we're going to move on to training standards of how are we going to provide training. And you can see that in each of these groups. Stakeholder engagement work sessions is a big part of this. So, we're trying to bring in folks to give us their thoughts on how we develop these. We have some objectives here. And then some discussion of our qualification standards, including who we're developing standards for in these core staff. And then what we're looking for, for attorneys.

Some discussion of the performance standards, and Eric can probably answer your questions. I'm not the subject matter expert on this, so I'm not going to go into a ton of detail about how these will be measured. But then we talk about the audits and quality control. And, again, this is kind of an order of operations thing where we know that we need to have audits and quality control. And these are financial audits. They're different from our internal audits. But until we have these standards in place and the metrics to measure them, that's not really much to audit. So, this is kind of a discussion of like future auditing plans.

And then a discussion of research and analysis, and what we've been doing in our data team, and how we've been improving our data so far, and also discussion of how that will lead to future KPMs, which is this last section. And that is your quality management report.

Jennifer Nash: Thank you, Ms. Taylor. Anyone have any questions or comments? Susan?
[Pause] You're muted, Susan.

Susan Mandiberg: Sorry about that. On I think it's page three of the quality management report... Am I right about that? No, it's on page seven. I think this is where you go into the CAP Division, and you talk about how it's organized. I actually had to make myself a chart to try to understand how all of that went together, and I'm not sure that I still understand it. So, under administration, at one point you talk about policy writers, and at another point you talk about program analysts. And at another point, you talk about policy team. So, are policy writers the same thing as policy team, or does the policy team include the policy writers and the four program analysts?

Lisa Taylor: Thank you for the question, Susan. We have a manager in our CAP unit. And under her sits our policy team. Our policy team is comprised of our policy writers. She also oversees the data team. And in the future, we would hope that she would have program auditors, compliance auditors within that division. Although, right now, the agency doesn't employ any compliance auditors. We do have an internal audit function, but we don't have a compliance audit.

Susan Mandiberg: So, I don't see anything in here that talks about a data team. And... Well, wait, I see data team under research. So, under research, you have data analysts. And then later on, you talk about a data team. So, I would like to see... I mean, I think it would be easier for the people reading this report if there were a chart that set this out so that... I mean, I also process things very visually, so maybe it's just for people like me and, evidently, Addie. But I would like to see it in a chart, and I think it would be helpful to see what you plan to have under each of these five divisions.

You have administration, trial criminal compliance, PCR compliance, research, and internal audit. So, that's five. I would like to see what you have now and what you plan to have under each of these divisions that you don't yet have, and maybe a reason why you don't yet have it. So, if you're not funded to have it, it would be, I think, good for the legislature to know that that's in a future plan and how it's going to fit into the big picture, and that you're at some point going to ask them to fund it.

So, this whole section... This was the report I had the most trouble following. There were parts of it that I couldn't follow at all. But this part of it, I think, would be easier to follow if there were some graphics. Another separate question... This is for Lisa. Is the acronym FCMS the same thing as the acronym F/CMS? Because I see that acronym in there both ways, and I didn't know whether it referred to the same body.

Lisa Taylor: It is the same acronym, and I did the control replace on the FCMS report, because that issue comes up there as well. I'll do that in...

[Crosstalk 01:13:16]

Susan Mandiberg: Great. That solves that confusion. And finally, what is a Nintex form? I have never seen that term before.

Lisa Taylor: It is a type of form that they use for internet data. I don't actually know. It's like a Power BI form or a Google Doc. It's just a type of IT form.

Susan Mandiberg: I bet there are other people who have no idea what it means.

Lisa Taylor: Okay.

Susan Mandiberg: So, maybe that could be clarified as... Because part of our goal is to make this actually communicate and not just click off a requirement. So, those are some of the reactions I had when I was reading this report. I found a lot of typos,

grammar problems, syntax problems that made it very difficult to follow. Thank you.

Jennifer Nash: Thank you. Ton?

Tom Lininger: Thank you, Jennifer. First, I wanted to echo Peter's comment. I really appreciate the thoroughness of these reports, and I realize we have work to do, tuning up grammar. I was going to ask some of the questions Susan asked. But two remain. First of all, on page four, the phrase, "More constitutional," is used. The state of being unconstitutional is like the state of being pregnant – there's not questions of degree, so I would urge [Distortion 01:14:45] rephrase that.

But also on page five, it talks about outreach to partners in some counties and not others. So, I see Douglas, Lynn, Coos, and [Distortion 01:14:55]. I'm glad there is outreach there, but I wonder if Lisa could explain or someone could explain why those four counties, and are there ongoing efforts to do outreach in other counties? It just struck me as an interesting subset, and I wish there were more explanation.

Lisa Taylor: Yeah, I can further explain that in the report. That's part of the pilot. So, they're doing a pilot in those counties, and then the hope is to expand that to the other...to statewide. But I can make that more clear.

Tom Lininger: If I were a legislator from a county not listed there, I'd be interested to know why those four were listed. But, again, I commend staff for doing a generally good job on these reports. And I'm a stickler on grammar, but my drafts are not tight my first drafts. Oh, and the more visualization of data is a great idea.

Jennifer Nash: Thank you. And thank you for commissioners' comments so far about grammar and things. I had a list, and I'll just cover the things that we haven't covered so far. One of the things that was super annoying to me because I am a visual person is there is different font sizes in this document, which I do not understand. So, that needs to be fixed. And also, there is like random words that are italicized, which I don't understand, that didn't really seem that those should be emphasized. And usually that's why you italicize words, to emphasize them.

So, just run it through grammar check, and it will fix 99%. I also am a strong believer in the absolute truth that you cannot proofread your own work because you see what you want to see what you think you have written and not what you actually have written. So, this needs to be proofread by someone other than who wrote it. I mean, one of the things that drove me bonkers... And this is the last thing I'll say about grammar, and Susan already talked about – is

the tense shifting. Part of the sentence would be past tense, and then it would end up in present tense.

It was just making... I was shouting out loud. So, if I'm doing that, other people are going to do that, too. Susan probably had the same response I did. And then I had some substantive comments about this report. One of them is, I mean, overall, I actually... This kind of reads to me like an outline or a preview of what a quality management report would look like rather than what it is. So, it doesn't have as much substance really when you dial down as I would want a quality management report to have. It has an outline of information about what we're going to do to develop a Quality Management Plan, not a Quality Management Plan.

And if that's where we are then we just need to say that. We don't have these in place yet, but we're going to be developing them. It reads on the surface like it is a plan, but I don't think all of it really... Especially when you get towards the later topics. I mean, it's just general. Also, specifically regarding training, we are required in Senate Bill 337 to develop a training program as a specific statutory requirement, and the timeline for this, we don't even start it until the end of the biennium. And I think that's significantly problematic from a statutory standpoint and a quality management standpoint. That a timeline for training standards start in January of '25, and Senate Bill 337 was from the '23...was July of '23. Well, ultimately, when it passed, it was in the fall when the governor signed it. But we should be doing this now, not waiting until January.

Also, the commission in July of 2023 directed the agency to work with OCDLA about training, and that's not in here at all. I know that I've had some requests to talk with OCDLA about that and made some public comment both in written format for this meeting and also in prior meetings about concerns about that. I do think that that needs to be addressed in some way because it's not there. Also, I think the information in the audit section isn't accurate because there actually have been recent audits that have been done on internal expenditures. I think that needs to be included in there.

It basically says we're going to be doing these things. Some of them have already been done, so let's make sure that we're talking about the things that we've actually done because I think it's important. And then also... I can send an email with these comments as well. There's a section about the KPMs. It said that Senate Bill 337 has provided us an opportunity to develop them, and I wouldn't phrase it that way. It was a statutory mandate, and it's always been in chapter 151 that we've had to do that. So, we should say that we have to do that, and we're going to be doing it, not that we have an opportunity. Because, I mean, it may be true we have an opportunity, but we're supposed to have already done it.

And you know, we're under fire. This is why we're doing a remediation plan – because we, frankly, continue to try to put lipstick on a pig at times, and that language smacks of that. That we're trying to make it look like something that we haven't done we're now going to have an opportunity to do. And if we haven't done it, we just need to say it, and we need to lay out a timeline for when it's going to be done and how we're going to do it. I think that transparency and being very blunt and straightforward in this is really, really important.

And then just, again, timelines, what we've done, what we haven't done, what we're going to do, and how we're going to do it is the big thing. This is a Quality Management Plan, right? So, how are we going to effectuate the plan. What's the plan? How are we going to accomplish it? How are we going to know we've accomplished the plan? Those are my comments. And I realize... I mean, it's very problematic that we're being asked to vote on this to approve this because I have some concerns about that. All right. Rob Harris?

Rob Harris:

Thanks, Jennifer. Yeah, I'd like to make a comment on the training issue and OCDLA. I actually called out something I think it's in this report. I'm trying to go through this and make sure it's the same report that we're looking at right now. It's on page 18 of this report. So, the training programs developed by OPDC would be different and distinct from the CLE programs provided by the OCDLA, and the Oregon State Bar, and other groups. For example, OCDLA provides high level CLE programs on a variety of topics to the criminal defense committees [Inaudible 01:22:55] Defense providers at the state and federal level. They almost entirely form large groups.

In contrast, OPDC training programs would be more targeted to meet the unique goals of public defense. That sounds to me like OPDC is going to do its own in house training and develop some programs. And I would say that, yeah, I mean, I've been to tons of OCDLA programs, obviously. And they do take a variety of methods of education, including boot camp style things. And they certainly have the ability to deliver whatever, I think, programming OPDC thinks is appropriate.

They just have to...the agency just has to talk to OCDLA and develop these program. They have the trainers. They have the experienced people who have done this for years. This paragraph concerned me because it reads like the agency is not interested in working with OCDLA. And so I think... I hope that's not the case. But I guess I'd like to hear the agency's response to my concern.

Jessica Kampfe:

Thank you, Commissioner Harris. I don't think it's accurate that the agency is not interested in working with OCDLA. We consider OCDLA to be a very important

partner in this space that has a great deal of experience and is a very valuable asset to the criminal defense bar. The Senate Bill 337 really took the agency to task for outsourcing a lot of functions that should be provided by the state. And so that... We see that in the development of the state trial offices as opposed to contracting out for all of the trial level services. We also see it in the area of training. And so the bill really directed the agency to take a look at the way that training is conducted across Oregon for public defenders and what needs to be taken in house and what could be done outside.

This is an area where the agency has, because of resources, not really been able to step up and do the things that it needs to do to develop. I heard Chair Nash earlier say that the timeline is not sufficient, that the agency needs to be doing his training work right now. What we're seeing... And I heard Lisa Taylor talk about this a little bit earlier when she was talking about procurement is we have a trial support and development team within the agency, and that's where our resource council sits, and it's also where our program analysts sit.

Ideally, that is the part of the agency that would be doing the work around developing qualifications, creating the key performance metrics, training towards those key performance metrics, or developing plans for how the agency is going to support attorneys getting trained to be able to meet those standards. Those employees within the agency have gotten very much dragged into the maintenance of contracts and the unrepresented persons population on a day to day basis, and it's been very difficult to carve out the time to do this big picture work that the agency is required to do.

We are looking to try to create that space. We recognize that it's a statewide priority that the agency meet this directive. And part of the agency's strategy to be able to do that is hiring an actual procurement staff to be able to do the contract procurement and amendment process so that the trial support and development team has the time to do the work that you're speaking to. So, I know that was a longwinded answer, and I hope that I answered your question. The end result is we are very open to working with OCDLA, and there is a lot of work that the agency needs to do to lean in, in this area. So, yeah. That's all.

Jennifer Nash: Thank you. Rob, do you want to follow up to that? You're muted.

Rob Harris: Thank you. Sorry about that. I just hope that the agency takes advantage of OCDLA's experience, expertise, infrastructure that they have in place to deliver some of these training programs. I don't disagree that the agency needs to develop the KPMs for the training. I don't disagree that it needs to monitor the quality of the training that's occurring. Maybe we're talking the same thing here, but I think actually performing some of these training sessions... I just

think OCDLA is really in a good place to be able to advise the agency as to what type of training is available [Inaudible 01:28:40] works.

And they recruit people to perform these trainings and programming who are in the courts every day in their counties doing this work. And as we all know, different counties, different districts, judicial districts, have different ways of doing things. And so OCDLA is everywhere in the state. They can do this work, and I would just really encourage the agency to utilize that expertise and resource, whether you're in Ashland, or Medford, or Baker City, or Tillamook, or Hillsboro, or Portland. I think it's a great partnership that can be made.

I'm disappointed no one in the agency has really contacted OCDLA to investigate this. As Chair said, this training... I mean, even if you... You could develop temporary training qualifications. I'm not saying you need to do a final... It shouldn't take the agency a year to do some basic qualification training standards, and I would really encourage them to start working on implementing some programming for at least temporary minimum training standards. Thank you.

Jennifer Nash: Thank you. Addie?

Addie Smith: Thanks. Just to address without solution focused answer to some of the concerns around sort of copy editing, proofreading, aside from having a process is we should probably have a template set for these reports that's been created and that locks in things like font size, etc. So, there are ways that we can address that in the legislative committee without micromanaging. Can sort of make those suggestions and review those templates if that'd be helpful, because I think that'll cut out a lot of time and worry. And that's something that's been successful.

So, I think that's really important. I think as to the training pieces, I really, Jessica, appreciate some of the candor around some of the expertise you all have in house in this area, and they're being pulled in lots of different directions and unable to sort of take that on. I know that's something that's a big sort of internal problem to be solved is how to leverage that expertise while still allowing those folks to come and do what they've been hired to do and what they're sort of best at. I don't know that this moment is the conversation for it.

I don't want us, again, to get too far in the weeds, but I think there's a lot to be said for hiring procurement folks but having an understanding that an expertise in procurement and an expertise in the provision of public defense are different, and so how are there ways that there is cross talk or individuals are hired who can recognize that sort of the procurement process can't be a silo unto itself that looks like procuring a consultant to come to a strategic plan to the agency

because of the level of tech...sort of technical understanding necessary to do those jobs well.

Again, I'm not sure this is the moment for that conversation, but I do think that's a piece of the puzzle in terms of the bigger crises around having enough attorneys, the right attorneys, attorneys who are maintaining their contracts and continuing to stay sort of enthusiastic about public defense so that there is an opportunity to really help those folks feel supported by procurement with individuals who know the technical details of what it means to do the work. So, I just appreciate some of those pieces, and I look forward and I'm excited to both partnering, of course, with OCDLA on training but also getting to the place where a lot of your really incredible staff are able to do a lot of the incredible work that they are excited about. Many of us know them and love them, and I'm sure would love to be present at some of those trainings, in fact. [Laughs]

Jennifer Nash: Thank you. Susan?

Susan Mandiberg: So, I'm concerned about... And this is... Maybe this shouldn't be in this report, but it's a time, I think, to raise it. I'm concerned about what balance currently exists in the agency between doing all these long-term plans and writing all these reports to the legislature, which I know we have to do, and dealing with the immediate crises that we heard so much about at the beginning of this meeting today and that I personally keep hearing about from stakeholders and members of the public who have asked to talk to me since the last meeting. I'm concerned that people are pulled away from dealing with the immediate crises in order to deal with the long-term planning and report writing.

And I'm wondering, is there some plan within the agency to correct that imbalance in an immediate way? Because the longer the immediate crises is given second focus because of the need to do all this long-term planning... At least that's what's coming across to me. And maybe it's just because these are the reports we're looking at right now. Can you reassure me that there's some balance in the way that personnel are being deployed so that both of these tasks which seem to be in conflict with each other are being addressed adequately?

Jennifer Nash: Before Director Kampfe talks about that, I just want to kind of chime in about a little bit of perspective shift that I had recently in this area. So, a couple weeks ago now, I attended the ABA Public Defense Summit, and this was a topic of conversation throughout the entire summit, two days. Mr. Deitrick was a presenter at that summit. We're not the only state grappling with this. In fact, it's, I would say, the minority of states that are not grappling with it. This is a problem that persists throughout the country. And what we heard over... What I heard over and over again from presenters from all over the US was that the

short-term crises is very important and must be addressed but that you can't address the short-term crises without addressing the longer arching issues and developing a strategic plan to move forward, or you're never...

You're constantly... These are my words, but you're constantly operating in crises mode and without any sort of strategic plan. I will say, that's what the commission did. Right? The last commission, we were in constant crises mode. And without addressing the long-term systemic issues, which really at their root are workforce issues and budget issues, I think, you can't address the short-term issues.

So, we have to do both for sure, but I do know that I've been hearing most recently from stakeholders like you, Susan... Well, like we heard this morning, right? You're so focused on the long-term, you're not focused on the short-term. And that's frustrating to hear because we've been so focused on the short-term for so long, we're trying to solve the short-term or be better equipped to solve the short-term by addressing the long-term. And it is a balancing act. With that, I'll ask Jessi to talk about that a little more.

Jessica Kampfe: Thank you, Chair Nash. I think that's very, very well put. Much more articulate than I could have said it. I will say that the agency, for a long time, has had a real imbalance because all of our resources have been going into addressing the unrepresented persons crises. And spinning on that issue without having the allocated resources to doing the long-term planning that's actually going to create an agency that's well functioning and a plan to get us out of that crises. And so I do think that we don't have all of the...

We are short on resources across the agency, and it is very difficult for us to both manage a crises and do long-term planning. I think a lot of the challenges that the agency has had in putting our resources towards this long-term planning has been because we've been so focused on what's right in front of us with the crises, and that's resulted in a real need to set out timelines, and smart goals, and making sure that we're keeping ourselves accountable for the bigger picture stuff because we haven't been on track with that stuff for a long time.

Jennifer Nash: Rob Selander?

Robert Selander: Maybe I'm a minority here. I don't think we're focusing on some of these short-term things enough. When we have providers saying that they haven't been paid for 114 days or something, when we have providers saying they can't get an expedited approval for an investigator, which means the investigator may lose the witness, which means the whole case may go away... When we can't do simple things like that and when every meeting we have, providers come

forward and have public comment, and then we immediately go forward into this long-term plan, and we never answer them...

And I don't see that there is any effort. It doesn't mean there's not. It's what I'm hearing or not hearing. To respond to these comments. I think we're doing a disservice. We have courts in crises now because we have unrepresented people. We have providers who are the people responsible for ensuring that criminal defendants get reasonably competent representation, as required by the constitution. But we seem to have an agency that's not responding to their needs to do that representation to the best of their ability right now I'd just like to spend some time some time talking about how the agency can do the long-term planning, which is obviously important, without putting the short-term at risk. I think we are putting the short-term at risk.

Jennifer Nash: Thank you. I will say dealing with those payment issues is the action item on our agenda. We are going to have a discussion about that and about how to solve that problem in the short term based on the direction that the commission gave to the agency at the last meeting about addressing that problem immediately. And so there is a solution that is going to be under consideration and for discussion today about how to address those...at least the PAE. Sorry, the preauthorized expense portion of that. And I think we do need to have a more robust discussion about the payment issues as well. Brook?

Brook Reinhard: I just wanted to agree with what the commission is saying overall here, because I think the short-term needs really need to be addressed. My concern is when we address short-term needs in a way that creates a longer problem. Chair Nash, when I hear you saying that you've come to that realization, I think about having watched the commission chasing the short-term so much to try to fix it that they were actively making it worse.

So, that's my concern. I fully agree with you, Bob, that we need to make sure the providers are paid, and we also need to, the very best we can, make sure that we are solving unrepresented crises and not waiting on that. I'm just concerned when short-term solutions are actively undermining long-term problems, and I think that's the real conflict we have in paying attorneys \$200 an hour unless it's sustainable over the long-term. So, that's my only thing about that. It sounds like it'll be a future agenda item, so that's all I got.

Jennifer Nash: Thank you. Jasmine? You're muted.

Jasmine Wright: Sorry. I guess I hate to be the bearer of bad news here, but I guess as nonvoting members, I guess that's kind of my role here. And as one of the few practitioners, I guess that's what I'm going to do is I don't... As much as I know that we're all well-meaning, I don't think we're doing anyone a great service

here. I'll agree with the judge. I don't think we're putting a lot of effort into short-term solutions. I think we do. I think we need to. I think although we're putting a lot of effort into long-term solutions, I don't think that's where our focus needs to be.

We've put a lot of discussion into long-term planning, and that's great. We have to do that. But that's not the problem right now. That's not the urgency. That can't be the urgency. We've put a lot of conversation into that, and that's great. But the long-term problems aren't the urgent issues that we have right now. We have significant short-term problems that are going to turn into catastrophic emergencies if we don't put significant time, and energy, and problems into this. The PAE issues are problems, and they're issues, and they are concerns that are absolute emergencies that need to be addressed.

I have problems in terms of PAE issues, in terms of issues and problems with my current clients that are absolute emergencies that are not being addressed. So, I mean, I get that we have systemic problems and systemic issues, and we have to consider both the short-term and the long-term. I get that we have to consider it logically and that we have to consider both those issues. Both the long-term and the short-term. But let's not kid ourselves by telling ourselves that by just thinking about the long-term solution that we're going to fix the short-term.

We have to think about the short-term solution, and we need to come up with a solution, or what we're doing right now is going to become an emergency. And we need to be realistic about that, and we need to understand that. And we need to understand that our practitioners and the people that we are here to serve except that of us. And we need to do something about that today.

Jennifer Nash: So, I want to... Thank you. And your points are well taken. I want to... This is an important discussion for us to have. I think it's better to have it when we talk about... I'm just looking at our agenda. The PAE discussions, policy updates, perhaps under the bylaw discussion. But I would like to deal with the reports that we have in front of us so that we can move onto the broader discussion. I also am just warning you, Jennifer Parrish-Taylor, I want to hear your input about this issue because I know this is something that you have talked about repeatedly, and I think it's worth...

Jennifer Parrish-Taylor: I was going to put my hand up, so...

Jennifer Nash: I'm going to defer so we can deal with this. I know you don't have your hand up, but I still want you to talk.

Jennifer Parrish-Taylor: No, I was going to put my hand up. So, if you want me to go now, that's fine. Or I can wait, because I see other folks.

Jennifer Nash: Well, let's wait just a second so we can try to deal with the report. Rob, were you going to talk about the report, or were you going to talk about something else?

Rob Harris: I was going to talk very briefly that some of these... Oh, sorry. Some of these issues are just mandated by the legislature. I mean, they mandated that we do these reports. They've mandated the agency takes the time to do this planning in the long range, so I don't think it's... We need to keep that in mind as we talk about how the agency is allocating time and resources. I would like to see these reports shorter maybe, more concise, and less long that we have to go through, because I think a lot of this can be condensed, probably, because these are legislatively mandated reports. Anyway. Let's get through these reports because we have to do them. The agency has to do them.

[Crosstalk 01:46:49]

Rob Harris: ...issues that we're talking about otherwise. That's all I had to say.

Jennifer Nash: Thanks. When we have the template that the legislative committee is going to deal with, I think we can make them more dense and more...and shorter. So, all right, with that... Unless there's anything else that's specific to this quality management report, I'm going to call for someone...if there's someone willing to make a motion to adopt the report.

Peter Buckley: I'll make the motion.

Jennifer Nash: Commissioner Buckley makes the motion. Is there a second?

Rob Harris: I'll second.

Jennifer Nash: All right, Commissioner Harris has seconded the motion. Is there any further discussion or suggestions? Susan?

Susan Mandiberg: Just a clarification. The motion is to adopt the Quality Management Plan report? That's the only one we're talking about?

Jennifer Nash: Correct.

Susan Mandiberg: All right, thank you.

Jennifer Nash: Are there any other additions or any other clarifications, or questions, or additions?

Addie Smith: I think it goes without saying that it's adopting it after it's been sort of proofread and...

Jennifer Nash: Thank you. I was going to clarify that. And I would like to be very specific in that I want Director Kampfe to have the final review and say before the report goes out. That probably is the plan anyway, but I just want to be very explicit about that. So, with that, Mr. Deitrick, can you do a roll call vote? [Pause] You're muted.

Eric Deitrick: Apologize. Chair Nash, how do you vote?

Jennifer Nash: Yes.

Eric Deitrick: Commissioner Selander?

Robert Selander: No.

Eric Deitrick: Commissioner Addie Smith?

Addie Smith: Yes.

Eric Deitrick: Commissioner Buckley?

Peter Buckley: Yes.

Eric Deitrick: Commissioner Parrish-Taylor?

Jennifer Parrish-Taylor: Yes.

Eric Deitrick: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Eric Deitrick: Commissioner Liniger?

Lisa Taylor: Yes.

Eric Deitrick: Commissioner Harris?

Rob Harris: Yes.

Eric Deitrick: Commissioner Harvey is not present.

Jennifer Nash: Thank you. The motion passes. So, before we move on or I want to move on to the financial case management report, I want to ask to kind of streamline things, do people need Ms. Taylor to go through that report in detail? That report is very thorough and very detailed, I think. If we want her to go through that, we can, or we can just open it up for questions or comments about the report. So, how about if you want us to go through the report, nod or give me a thumbs up. All right, it looks like nobody wants us to do that. So, are there questions or comments about the financial case management report that's been prepared and submitted?

Lisa Taylor: If I could just make a comment about it.

Jennifer Nash: Yes.

Lisa Taylor: We actually got some feedback from both the DAS CIO's office and LFO predominantly around the fact that it is such a dense report, so we might actually be moving some things. Like there is large charts that go on for a couple of pages. Those will likely be moved to the appendix, and the appendix is going to be greatly expanded. Rather than just saying, "These documents are available," we're actually going to reproduce all those documents for them. So, it's going to be a very large appendix, and the report itself is actually going to be tightened a little bit.

Jennifer Nash: I will say, I really, really appreciate the quality of the information in the report, and the timelines, and the very clear where we are, where we need to be, what we need to do, what's happening. Especially in light of the last report that was so dismal about where we were, and what we needed to do, and what was happening. So, I appreciate that. Rob Harris?

Rob Harris: Thank you. So, my question is sort of a 30,000 point question, because I went through this, and I lost track of dates as I was going through this of all these different tasks you have to do by certain dates. So, here's my meta question for you – do you expect to have the FCMS Management System available, everyone trained on it, and ready to go not in beta format at least three months before the next contracting period? So, that would be, what, March of 2025? Is that what our expectation is? Or is this going to be ready or not?

Jessica Kampfe: I see that our chief information officer, David Martin, is on the call, and he's probably the best person to answer more detailed questions about the financial case management project.

Rob Harris: All right, thanks.

David Martin: Hey, good morning. David Martin, chief information officer. Thank you for your question, Rob. So, just to make sure I restate your question and understand it... So, your question is around the training of our external providers on the solution that will be selected?

Rob Harris: Will this be used in July of 20...? Do you expect the providers to be using this for the July 2025 contract? I guess that's the real bottom line. They have to be trained, obviously. They have to be able to respond to the RFPs, and they have to know what they are being asked to deal with. So, really it needs to be all done and proposed probably early 2025, I imagine, and then ready to be used July 2025.

David Martin: I agree with you. Right now, what I can say is currently we are on track and on schedule. We are looking at vendor onboarding. Right now, we're trying to make some broad guesses based on the current cadence of how this project is rolling out. We will be evaluating proposals starting likely this July. The conclusions of those proposals and actually negotiating contracts, which as I'm sure you are aware of can take considerable time with state government being what it is. We have outlined a timeframe of October to December of completing, just to be realistic on going through all of the legalese in the contract to get that done with the selected vendor.

So, now you're looking at a January/February onboarding timeframe, getting that solution integrated in and moving forward within our organization. So, with that in mind, with kind of those are the left and right margins of how we are hoping to move forward with this schedule, to be training and have our providers trained in this solution is, I believe, a realistic expectation. But I would also say that it's going to be a tight one as well, but it's certainly one that we will be shooting for.

Rob Harris: Thank you.

Jennifer Nash: Are there other questions or comments for Mr. Martin or Ms. Taylor about the report? All right. Mr. Martin, I imagine you or someone on your team wrote this report. Thank you. It's very thorough and very helpful, and I think it will be well received by the legislature, especially in light, as I said, of the last report. So, thank you very much for the work.

David Martin: Thank you.

Jennifer Nash: All right. With that, I'll call for a motion. Oh, sorry. Ms. Taylor?

Lisa Taylor: Sure. Thank you. I just would like to ask for the motion to include the updated appendix, and then we actually received...our outside quality management assurance folks at Hitner Group. They apparently turned in their report about the last month's progress yesterday. And so if there's anything that needs to be updated from that report, we'd also like to include that. I haven't actually looked at that.

Jennifer Nash: I think that's very helpful. Thank you.

Lisa Taylor: Okay.

Jennifer Nash: So, with that, can we have a motion to adopt the FCMS report with the changes to the appendix and the additional update regarding the most recent progress update?

Rob Harris: So moved.

Jennifer Nash: Commissioner Harris moves. Is there a second? Commissioner Mandiberg seconds. Mr. Deitrick, can you call for a roll call vote?

Eric Deitrick: Chair Nash, how do you vote?

Jennifer Nash: Yes.

Eric Deitrick: Commissioner Selander?

Robert Selander: Yes, with an explanation.

Eric Deitrick: Commissioner Smith?

Addie Smith: Yes.

Eric Deitrick: Commissioner Buckley?

Peter Buckley: Yes.

Eric Deitrick: Commissioner Parrish-Taylor?

Jennifer Parrish-Taylor: Yes.

Eric Deitrick: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Eric Deitrick: Commissioner Liniger?

Lisa Taylor: Yes.

Eric Deitrick: Commissioner Harris?

Rob Harris: Yes.

Eric Deitrick: Commissioner Harvey is absent.

Jennifer Nash: Thank you. The motion passes. Okay. Let's move on to the modernization and... Actually, I'm sorry. Rob Selander, did you want to make a comment about your...?

Robert Selander: I did.

Jennifer Nash: Okay.

Robert Selander: It troubles me. And I try and be consistent. That we're asked to vote on things that are not in final form and that have changes being made to them... So, my nay votes on the first one and almost on this one are for that reasons. I think it's a bad policy for us to do that is my explanation. Thank you.

Jennifer Nash: Understood. Appreciate it, and hopefully the formation of the legislative subcommittee, which I hope you will join, will remediate that problem. Thank you. All right, speaking of remediation, let's move on to the modernization and remediation plan. This is just by way of background an update to a report that we have...the commission has provided to the legislature in the past and will be required to continually update quarterly. And before I turn it over to Ms. Taylor, do we need to... Do commissioners want Ms. Taylor to go through the report in detail? All right. We do not need to go through the report in detail. But, Ms. Taylor, why don't you make whatever comments you would like to make about the report?

Lisa Taylor: Yeah, thank you for that. Yeah, this is an updated report from our '25 remediation topics that we've identified, and they just provide a status update and timeline for all of those issues. We also added to this... You'll see in the executive summary, we kind of listed achievements that have happened since the last quarter, and we thought that was an important thing just to highlight off the bat, because a lot of work has been done. We also included numbers that are directed in the budget note and that we didn't include in the last version.

So, you'll see our caseload numbers there. We'll also be putting in the financial forecast, which is actually going to be the budget numbers that you see during today's presentation. So, I'm just going to import that graph. And then we also, again, talk about procurement. And we show the procurement numbers. Because the April amendments had not been completed, that graph will be added to here. Then we just go into the remediation plan. So, that's all I have.

Jennifer Nash: Thank you. Does anyone have any questions or comments? Peter?

Peter Buckley: Yeah, just a comment. Again, this remediation report has evolved in a remarkable way. It's great to have the information. I still have real concerns though with the work on the six-year budget plan. I'm unclear what the process is for the six-year budget plan. It does not include anything about recruitment of attorneys, which I have great concern over. We can't really be looking at how we're going to address the longer term needs that we're talking about here unless we have an idea of how we're going to recruit new attorneys into the system, and there is nothing available in the six-year plan now on that.

Again, my question has to do with what's the commission's role in terms of determining...? As we look at this six-year budget proposal, there are options being presented by the consultants, saying things like, "Well, the legislature could change statute on the length of penalty for certain crimes." Is it our role to then come up with those recommendations? Is our role to come up with recommendations of saying, "We should increase the use of social workers," etc.? I'm not sure where our role fits in this, and just want to bring up those two concerns on recruitment and on the commission's role in the six-year plan.

Jennifer Nash: Thank you for that. And I should have addressed this at the beginning, and I forgot, honestly. So, from the last...for the March meeting, we were going to discuss the six-year plan again during this meeting, and I asked the agency to pull that off the agenda for this meeting and to move it to May because the reports were so dense and so long that I wasn't sure we had sufficient time to address it.

Also, there is some questions that other commissioners had about some of the methodology that I thought needed some work before we move forward. Then kind of a logistical thing, my thought was if we discussed that in May, we could bring it for a vote in June when we were in public in front of the providers in Bend. And I thought that was probably just a better way, opportunity for public comment, all those sorts of things. So, I'm sorry I didn't talk about that at front. I meant to do that. Rob? You're muted.

Rob Harris: Thanks. So, I'm not sure the remediation plan is the place to put the information regarding late payments to providers that we've been hearing about over and

over again. I don't think there's a... When I was looking through it, I don't see a place where it says that, but I'm sure that is a remediation issue, I believe. And I think at some point, the agency says that even though they're short, they've been making all the payments to people.

And we know that's true. Eventually, people get paid. But maybe it needs to be noted somewhere in one of these reports. I don't know where it should be. I think probably remediation. But we have at least anecdotal evidence over and over again that folks that are doing this work and live basically paycheck to paycheck, month to month cashflow, are not getting their checks on time. I mean, we hear it over and over again. Perhaps the remediation report is the place to put that, but I will... I just wanted to raise the concern, and I think this needs to be noted in one of these reports.

Jennifer Nash: I agree. The purpose of the remediation plan...it's clear that... So, this happened in the last commission, the beginning discussion of that. But the legislature basically said, "You need to identify for us what you're not doing. You need to account for it, call it out, tell us how you're going to fix it, and then report..." And they said, "Pick your top 25 things and then come back and report to us about what you've done and what you're doing." And we're supposed to be calling out internal issues and external issues that affect the agency in that report. So, yes, this is exactly where it's supposed to go, and it does need to be addressed. And that was one of the things that I had on my list to talk about. Ms. Taylor?

Lisa Taylor: Yeah, so this is addressed in the "Accurate and Timely Vendor Payments." It's on page 25 of my document. I'm not sure what it looks like there. But we talk about how accounts payable and preauthorized expenses is experiencing a backlog, and then we talk about next steps, which include we are...we have accounting positions that start in July of '24 ,but we're going to try and bring those on earlier. And about some contract temporary employees we've brought on and other steps that we've taken. So, it is being called outs. If you'd like that more...

Jennifer Nash: Well, I think we also need to talk about what may happen today with voting on policy changes to address some of those, because I think that's important to include. I anticipate that there's not... I mean, we may change how we're doing it, but there's definitely going to be some, I imagine, commission action on addressing this today. So, that should probably be included as well. Because it's not just, "Oh, we need to hire more staff." I mean, we do. We need to hire more staff. But I think there needs to be some policy changes, too, [Inaudible 02:05:13]

So, does anybody else have any questions before I...or comments before I kind of go through my list? All right. So, what I have... I think that the... I appreciate

that we tried to make this report shorter, but I think that by making it shorter, it loses some of the transparency and frankness that were in the prior remediation reports. I mean, this is supposed to be, "This is what the problems are, and this is how we're addressing them." And by omitting the, "This is what the problems are," it looks like we're just reporting on some random things that we're doing, and I think... Which is helpful, but I also think that the optics...it changes the way you read the report.

So, instead of saying, "Yes, we acknowledge we have these issues, and here's how we're addressing them," it's just like a progress report of things. So, I think maybe even as an appendix, to include the original list of the remed, that might work. The issues we were supposed to be addressing rather than just broad categories. That might be a way to do that. Also, we identify a huge risk in the accounting department and don't identify how we're going to address it, I think, in an adequate manner. This remediation report appropriately calls out that we've got a significant issue with the lead accountant, the second accountant.

And then there's a sentence that says, "We don't have a clear way to figure out who's running the accounting for the agency." I think if that's true, that's good that that's in that report, but then we ought to tell them what we're going to do about fixing it because that's not in there in a very clear way. I mean it is alarming, and people have called that out in public comment. So, I think that there needs to be some...we need to address that. I mean, that's the biggest thing, right? Also, just to... I don't know if this is... I mean, in the audit section, it felt to me like we were conflating internal and external auditing because the external... You talked about the adoption of an audit plan. That's an external audit plan that was adopted.

That doesn't have anything to do with the internal audits that the agency ought to be performing, and it's okay to talk about that. But we ought to make those things very clear, that one is...the external audit is auditing how well the agency is performing what it's supposed to be doing according to its mandates, and the internal audits are how well the agency is following its own internal policies, procedures, etc. I mean, we need to really tease that out, and instead I think they got conflated. I think also in there regarding remediation, we need to specifically say there's a voting member of the commission that's now on the...that's been appointed to the external audit committee, because that's part of that governance and oversight piece that I think is important to point out in our remediation report.

Lisa Taylor:

Chair Nash.

Jennifer Nash:

Yeah?

Lisa Taylor: Just for clarification, we don't have an external audit plan or an external audit committee. We have an internal audit plan and an internal audit committee.

Jennifer Nash: Well, there's an external audit committee that's adjacent to the...that's completely separate from the agency, and it looked to me like... Well, maybe I'm conflating them. But it looked to me like the three-year plan that was adopted that was mentioned in the remediation plan was the external audit plan. Is that not...? I mean, I guess that's the point is we need to make sure we're very clear about what's what so that nobody is confused. [Pause] Okay, that's all I had that's specific. Does anybody else have any comments or questions about the remediation plan report? Okay. With that, then is there a motion to adopt the modernization and remediation plan?

Peter Buckley: I'll make the motion, given the additions and corrections that you have mentioned, Jennifer.

Jennifer Nash: Thank you. And is there a second? Okay. So, for the record, Commissioner Buckley made the motion. Commissioner Lininger second. Mr. Deitrick, can you take a roll call?

Eric Deitrick: Certainly. Chair Nash, how do you vote?

Jennifer Nash: Yes.

Eric Deitrick: Commissioner Selander? Commissioner Selander, I think you are muted.

Robert Selander: No.

Eric Deitrick: Commissioner Smith?

Addie Smith: Yes.

Eric Deitrick: Commissioner Buckley?

Peter Buckley: Yes.

Eric Deitrick: Commissioner Parrish-Taylor?

Jennifer Parrish-Taylor: Yes.

Eric Deitrick: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Eric Deitrick: Commissioner Lininger?

Lisa Taylor: Yes.

Eric Deitrick: Commissioner Harris?

Rob Harris: I would like some clarification on the motion as far as what the additions that are included in this motion.

Peter Buckley: Rob, Jennifer had mentioned the audit section, clarifying the audit section, and you had a couple other points, too, Jennifer. I don't know if you want to list them.

Lisa Taylor: Could I say what I have written down, the edits that I was going to make?

Rob Harris: Sure.

Lisa Taylor: If that would be helpful? I have updating the timely payment section with commission action that's taken today, appendixing the original report, and identifying solutions to the accounting issues that are identified, clarifying the difference between internal and external audits, and then adding that there has been a voting member of the commission added to the audits committee.

Rob Harris: So, on the first point, Lisa, I'm not... Could you clarify what you mean by actions taken by the commission today?

Jennifer Nash: That was me. We're going to vote on...discuss and vote on changes to the preauthorized expense issues to help with the delay issue. And so whatever we do... And I don't know how that's going to shake out in terms of the actual motion, but whatever we do in that regard, if we approve something, I want to make sure that that's included in the remediation plan.

Rob Harris: All right, thank you. I'll vote yes.

Eric Deitrick: And Commissioner Selander, you had your hand up.

Robert Selander: I'm lowering my hand. I have trouble, again, in voting for something and not knowing what I'm voting for. And the chair has expressed concern in the accurate and timely federal payments, that there was some specification on what the agency was going to do. We don't have that specification. We have... I don't mean to say this negatively too much, but we have a bunch of excuses on why it's not happening, not how it's going to happen. And it concerns me, again, that we're voting before we know what we're voting on.

Eric Deitrick: Chair Nash, with that, the vote was seven-one with Commissioner Harvey absent.

Jennifer Nash: Yes, and the vote passes. Again, point very well taken, Rob Selander...Commissioner Selander. Okay. So, just a time check. We've blown through time. I know that. I'm not really going to apologize because it needed to happen, but we do have a number of things to take care of. We have a break that's scheduled at 11:40. We've had a request for a break. Are people wanting to just take a break now before we move on to the next item? Yeah, everybody is saying yes. Okay. So, let's take a relatively short break. Are we okay if we come back at 11:20? Does that give people enough time, or do you want a little longer? Okay, everybody is saying yes. Okay, so 11:20, we'll be back. Thank you.

[No dialogue]

[Background chatter]

[No dialogue]

Brook Reinhard: Jennifer, before we resume, can you explain whether I was supposed to be using first or last names? I've heard both, and I feel like I've committed a terrible breach of etiquette.

Jennifer Nash: Yeah, I know. I'm super uncomfortable using first names. We had this discussion during the meeting... I'm so used to court, as you are, too. But the consensus was we're supposed to use people's first names.

Brook Reinhard: Okay, thank you.

Jennifer Nash: Although it's hard for me to do that.

Jennifer Parrish-Taylor: Can I make a friendly amendment?

Jennifer Nash: Yes.

Jennifer Parrish-Taylor: To say that if you are uncomfortable, we're not going to coerce you into using people's first names.

Jennifer Nash: [Laughs] I know.

Jennifer Parrish-Taylor: It is perfectly fine to use the salutation that you're comfortable with.

Jennifer Nash: I know. I also will never call Senator Prozanski, I told him, anything but Senator Prozanski. And it's also hard for me to call Judge Selander Rob, too, by the way, Judge Selander. [Laughs] Okay, it looks like...

Robert Selander: I will accept that, except I prefer Bob. I've never been called that.

Jennifer Nash: Bob, all right.

Robert Selander: I don't know where that came from.

Jennifer Nash: Well, I don't either. Well, good. I'll call you Bob. That's fine. That was my dad's name. I could do that. All right, we've got a quorum back, I think. One, two, three, four, five, six. Yes, so we can go ahead and resume. Are we still recording, Mona? We are? Okay.

Mona Riesterer: We are.

Jennifer Nash: Okay. So, I'm going to shift things around a little bit. I know our next item on the agenda was a briefing, but I think it makes more sense for us to continue to deal with action items. So, I'd like to move onto the May Legislative Days request regarding...these are requests to the E Board for position requests for the agency and Temporary Hourly Increase Program.

Jessica Kampfe: Thank you, Chair Nash. The agency will be attending the E Board in May, and we have an opportunity to ask the legislature to provide additional funding for the temporary hourly increased program. The commission will recall that that program is currently set to expire in June. And so if the commission does not take action to direct the agency to ask the E Board for additional funding then the program will expire in June of this year. If the commission does take action to direct the agency to request additional funding for the E Board then the agency will submit a request to the legislature asking for those additional investments, and it would go to a hearing in front of the E Board where legislators would make a determination about whether or not to approve that request.

If it is approved then the agency will come back to the commission following the E Board and ask for the commission to vote to extend the Temporary Hourly Increase Program. Because at this point in time, we don't have the money to extend it internally. We would need those additional investments from the legislature in order to extend it. We have provided for you a memorandum about the program. We did have an opportunity to get some feedback where it was pointed out that it would be very helpful before we go to the legislature to be able to provide some data about the program and in a more visual way. And so we have a couple slides for the commission that has some of that data in it.

I will let the commission know that we are continuing to work to refine this data, and I would hope that we will be in a position to present a little bit more detailed information along with the request to the legislature, should the commission direct us to do that. Mona, if you could move to the next slide please. So, this is some of the performance information that we have about the Temporary Hourly Increase Program. I guess actually... I'm going to take a second and just... The Temporary Hourly Increase Program is a program that the commission authorized the agency to run to address the immediate unrepresented persons population.

And so the agency is paying higher rates to lawyers and investigators who accept appointment for in custody persons who are on the Oregon Judicial Department's unrepresented persons list. So, the scope of the program is limited to only people who are in custody and on Oregon Judicial Department's unrepresented list. It allows the agency to pay a higher rate on those cases than our standard hourly rate. And so I just wanted to clarify the acronym, THIP, before we moved any further forward. So, with regard to the program, this is the information that we have on sort of performance standards for the program.

In total, the program, since its inception, has served 3,951 persons who were unrepresented, have gotten appointment of counsel through this program. And the total number of cases served is 5,597 cases. We can see what case types we've served. I think it's important to note that the scope of the program has expanded and compressed over time. So, there was a time period when all unrepresented people were eligible to receive representation through this program. Then due largely to financial concerns, the program constricted in scope and was limited to only in custody unrepresented persons. And so you'll see some cases types in here that are not currently the cases that are most likely to end up in the program, but they would have been at a point in time.

So, this lets us know how much money we have paid out through the program and what those categories of money are. So, you'll see the attorneys fees has been 13.7 million. The increased investigator fees, 3.1 million. We also have in here the preauthorized expense fees of 4.1 million. I will note for the commission that these are not enhanced rates. These are fees that would be paid on these cases regardless of whether or not they were handled through the temporary increased program because those are the kinds of things that would be billed on any case that somebody received representation on. We also can see in this chart, there was a question about is this program bringing in new lawyers into public defense that aren't otherwise doing public defense work.

So, we can see that of the 164 lawyers who have performed work under the Temporary Hourly Increase Program, 61 of them had contracts with the state to do public defense work, and 103 are only doing hourly work with the state, so they don't have a contract to otherwise do work. So, that gives us some information about who is being served, how many cases, and who is doing the work. And, Mona, can you do the next slide for me? This has to do with our expenditures on closed cases. So, as I noted, roughly 5,500 cases have come in under THIP. Of those 5,500 cases, 2,818 are listed as closed in the Oregon Judicial Department's data. So, this is the money that we have spent on those closed cases. So, when we look at the expenditures in total, we can see that less than half of the money is spent on closed cases, and more than half of the money is on cases that are still open and pending.

The closed cases, that doesn't necessarily mean that we've received the final bill on these cases. It's possible that we will continue to receive attorney hours as well as other expenses like investigator hours. Also, this is money that's paid, not money that's invoiced. So, we may have invoices sitting in the queue that will increase this number. But it does give us a sense that these are cases that have either been completed or are winding down and will not have a large number of additional bills. Whereas the cases that are open will continue to have more billing on them. And next slide, Mona. All right. I think that's it for our data sets. Then I saw some hands up, so I'm happy to answer questions.

Jennifer Nash: Thank you. Can we stop screensharing so I can see everybody? Thank you. Bob, did you have a question? You're muted. No, okay. Your hand is still up. Okay. Does anybody have any questions? Rob, you're muted.

Rob Harris: There we go. Sorry.

Jennifer Nash: That's okay.

Rob Harris: I mean to turn my video off instead. So, this is great data because you now have case types, how much you spent per case. I'm assuming you can get the hours on that. And some of these may be a little low. Like the J Laws, you only had eight or nine. But Measure 11s, you had almost 190. Have you analyzed the hours spent on this, what the lawyers spent it on, trial rates, that sort of thing? You have tons of misdemeanor cases, and some rough analysis was about \$440 per misdemeanor case now. And that's all in, by the way. That's including fees, and investigator services, and everything. I'm assuming that number did, not just attorney's fees on that last slide. Have you guys looked at that and analyzed the attorney paralegal utilization rate on that and come to any conclusions?

Jessica Kampfe: Thank you, Rob. That was a really complex question, in terms of I feel like you asked me a few different things in there I agree with you that this is really great

data in terms of how many...like timekeeping and how many hours people are actually working on case types, and what the costs are. We are digging into this data more deeply, and our chief financial officer is working with our data team to look at this more closely in context of building out the POP request that you all are going to see, because part of Senate Bill 337 requires us to create a panel of hourly attorneys and also to do a salary study.

And so this type of data is going to be really informative when we talk about sort of how much it's going to cost to pay hourly per cases moving forward. And so the short answer is yes, we are leaning into this data. We can't do all of the things that you mentioned, but we hope that we will be able to. The agency just this week finalized a data sharing agreement with the Oregon Judicial Department.

That is going to allow the agency to get access to back end Odyssey data. Once we have access to back end Odyssey data, we will be able to start to do things, like look at trial rates, and motions, and all of those kinds of quality things. So, that's an area where our data information is hopefully going to start improving now that we have that agreement in place and will be helpful to do some of the other things that you were talking about, Rob.

Jennifer Nash: Thank you. Tom?

Tom Lininger: Thanks, Jennifer. Intuitively, it makes sense for me that we continue to seek funding for THIP, sort of the way that hospitals paid a lot more to nurses who traveled during COVID. But I just wanted to ask Brook... I saw Brook's hand went up, and I'm glad it did. Earlier today, you seemed to have made a comment indicating that this program might in some respects be counterproductive. I don't know if you meant in the near-term or the long-term. And I'd be really curious to hear your thoughts, and I'm glad to see your hand went up.

Brook Reinhard: May I?

Jennifer Nash: Go for it.

Brook Reinhard: So, first of all, I think this was a really necessary program when it was done, and I'm not saying if I had a vote that I wouldn't vote to continue it. I'm also, like Rob, very pleased to see the data. My hesitancy is basically this – at the time this program was first created, it was roughly double the amount we were paying contractors, and there was a real feeling in the contractor community of a bait and switch. Of wait until the contract is signed, and then there is this higher hourly thing for people who said no. I thought it created some really weird incentives and caused some mistrust that I don't think needed to be there.

I am very much in favor of this program as it relates to people who would otherwise not be doing public defense who are doing a few cases. I do not think and I think that generally nonprofit PDs and consortia disagree on this, the nonprofit PD position is basically, "We don't think that we can do this program when we already have a full caseload." And some consortia agree, some disagree. I think that's created a real split as well, and I would prefer that this program be for people not already doing contracts because I think it is problematic. I think there are uses of this program, and I think it can be good. And, frankly, I think \$200 an hour is not that much money when we're talking about public defense.

I mean, Jennifer talked about what her hourly would be not for public defense. A lot of contractors are losing money by doing this. But when our existing contracts are closer to half of that or two-thirds, it's really hard to see this being awarded in ways that continues and sort of undermines what we're trying to do with long-term building public defense. So, I guess that's my concern. If the messaging is we're trying to get contractors up towards this level and let's fix the short-term problem as we increase contractors, I'm actually really in favor of it. It's just there doesn't seem to be quite enough money.

I know anecdotally of at least one contractor who wanted to get back into public defense this last December, and OPDC didn't have money for that person to do a contract with the consortia, so instead she got put on the hourly rate. And if I know about that locally, I'm wondering how much that's happening around the state, and that's what I'm worried about, short-term versus long-term thinking. If we are having contractors that would rather have a long-term investment in a stable contract as opposed to hourly, who knows when it'll end, I don't want those people being undermined and not being able to do and instead being given more money but no certainty if they have a future in public defense. So, anyway, those are my concerns.

Jessica Kampfe:

I would just like to, if it's okay, respond to the point about funding for contracts and funding for hourly, if that's all right, Chair Nash. The agency's budget is broken up into distinct budget buckets, and so one of our budget buckets is the bucket that our contracted providers...the money for that sits in. We have a separate budget for court mandated expenses. That is the budget bucket that our hourly attorneys are paid out of generally. Not with regard to the THIP program but generally. And then we have a separate budget bucket for preauthorized expenses, and that is the budget bucket that our investigators are paid out of.

So, the hourly attorneys and the investigators are the folks who have the ability to get those increased hourly rates under the THIP program. So, that money for

the THIP program is money that's allocated from the legislature for this program, and it sits in those hourly budget buckets. And we have to tag all of our cases that are THIP cases specifically to earmark the funding that is associated with them. It is a separate funding stream than the contracted funding stream.

Jennifer Nash: And I'll just say, I mean, you're right, Brook, that was happening because there wasn't money at that point for any more contracts. And there was... I mean, the commission had identified many, many lawyers across the state that wanted contracts, and there was no money to give them contracts. It was very frustrating for the commission and very frustrating for the agency because there just wasn't the ability to do that. And the message was, "It's okay. You can still do public defense. Just please take the cases hourly." And it wasn't ideal, certainly, but it was much better than the alternative, which is to not have that lawyer doing any public defense work at all. But you're right, that was happening. Senator Prozanski and then Jasmine.

Sen. Floyd Prozanski: Yeah, my comments really are I don't know if we can change in the middle of where we're at right now of shifting out. I guess my question is really to Jennifer as to the availability of individual contractors. We know we do not have enough attorneys right now for the unrepresented. And for us to not be seeking additional funding from the state, the legislature, would be a misstep on my approach and my belief. We need to do this. Yes, there needs to be a writing at some point of what their compensation is going to be in the future, but one of the more important parts of this for those who are not familiar with the legislative process is...

And I have a former cochair here hopefully to assist in this. We, as a legislature, told the agency, "These are things that you need to do an things that you can come back and ask for additional resources." And that's what we're doing right now. They were [Distortion 02:40:44] the way the budgeting goes to just give all of the potential funding at one time. And so this is a necessity in my estimation that we do need to move forward and seek additional funding from the state because we need it to complete the work we have. Thank you.

Jennifer Nash: Thank you. Jasmine? You're muted.

Jasmine Wright: Yeah. I mean, I am in support of asking for this additional amount. As I stated before, I think we've got some short-term emergencies that we need to address. I'm aware of just local contractors here in Klamath that have requested to...that have contracts that have requested to go hourly where there's been a short fall of attorneys, and they've been denied their request to go hourly to essentially help with that short fall. So, I don't know the reasons for that or the

specifics of that, but I would hope that if we make that request that that would alleviate that issue. So, that's all I'll say on the situation.

Jennifer Nash: I will say a couple comments about that. And I think it relates to the information that was presented in the commission materials, too. There's a comment... Well, first, let me say that we have the MAC standard. So, if there is a 1.0 FTE... Or sorry, 1.0 MAC contractor, they are not going to be able to take hourly cases because the commission has been really clear about that. And in fact, the attorneys, when they take cases hourly, have to certify for each case... They have to sign a certification saying that they have the capacity and that they're not exceeding MAC.

And so if you're a... I'm just making this up but a .5 MAC, sure, you can sell your time hourly. But if you're a 1.0 MAC, the commission...the previous commission and I think probably this one as well has made it clear that we're not interested in having people exceed their constitutionally mandated caseload. So, it may be that those folks are wanting to do that. And there is also a statement in the temporary hourly increased program that alludes to if people are taking more than they're allowed to under MAC, MAC doesn't matter. And I would say that's true and that the commission's expectation is that people are not being permitted to take those cases because that's what the direction of the commission has been to the agency. I'll let Director Kampfe talk about that.

Jessica Kampfe: Thank you, Chair Nash. The Temporary Hourly Increase Program has gone through many iterations. And so at its inception, it did not allow people who were 1.0 MAC to take hourly cases. Its current iteration does allow 1.0 MAC to take hourly cases if they have taken the full caseload under their contract. So, the commission heard from providers, and this is probably starting around April of last year, that there were a number of contractors who were saying that they had hit their caseload maximum but that they actually had capacity to take cases in addition to their caseload maximum.

And the commission made the decision to allow contractors to exceed their maximum attorney caseload and take cases hourly under the THIP program. Any lawyer who takes a case under the THIP program has to have both an attorney agreement with the state, as well as for every case that they take under the THIP, they have to sign an attestation that they have capacity to handle that case. And that attestation includes the factors that we look at for capacity for public defense. Do they have time to meet with their clients to review the discovery, to litigate the case. All of those types of factors are laid out in the attestation.

So, I did just want to clarify that for the parameters of the current program, we allow people who do not have contracts with the state but have signed the

attorney agreements for hourly work to take cases. People who have less than 1.0 contracts and people that have 1.0 contracts are all taking hourly THIP cases. And we know from our data that about 100 of our providers that are doing THIP cases are only doing hourly work with the state and about like 60 have contracts. I actually don't have a breakdown at this point in time about how many of those people that have contracts have 1.0 contracts or have less than 1.0 contracts.

Jennifer Nash:

That's a very good point, and thank you for bringing that up. In my mind, I was thinking of this differently from the old contract to the new contract. So, just for reference, under the old contracts, MAC was an annual amount. And what happened was in 2023 in April-ish, many contractors said, "Guess what? We've taken all of our entire allotted MAC for the entire year even though we end June 30th, so we're done. We're not taking any more cases because we've done all the work that we're supposed to." Then those contractors started taking cases under the Temporary Hourly Increase Program, and that also created some...

And at that point, the program is authorized for all case types, not just in custody. And that created some perverse incentives to let people be on the unrepresented list so people then could take them hourly. So, the commission became aware of those unintended consequences, kind of tightened up their requirements about who was going to be eligible for those cases. But in the new contract that started July 1st/October 1st, lawyers are required to take 1/12 the number of required case each month so that they couldn't take 12 months' worth of cases in 10 and then sell two months back of their time.

And more importantly than that, it was if we had the idea that 1/12 of those cases per month is the constitutionally appropriate amount, you can't exceed that. We don't want you exceeding that. So, it may be... So, that's also why you saw in July of 2023 massive numbers of people on the unrepresented list. Because many, many contractors across the state were not taking any cases under their contracts because they said, "We're done with our contracts. We don't have to take any of those cases, so we're not going to."

So, from that, I would think, and believe, and hope that if you're only allowed to take 1/12 of your cases per month, that means that each month you have taken your maximum number of cases if you are a 1.0 contractor, and you don't have capacity to sell back to the agency. Because if you had capacity, you would be taking your cases under contract with the contract that you already have. So, if that's happening then I think from an oversight perspective, from the commission perspective, that needs to be looked at because that means that people are exceeding their constitutionally mandated case numbers that the commission has approved.

And I don't want to suddenly add a bunch of people to the unrepresented persons list, but on the other hand, I, for one, as one commissioner, am not interested in people taking more cases than they should because that affects quality. And we don't... And it also doesn't help in the long run solve this problem. So, with that, does anyone have any additional comments or questions? Judge Selander?

Robert Selander: MAC caseload... I'm still not sure exactly how it's figured out. The reason I ask that is I know there are a number of people that are on failure to appear status that are carrying the caseload, that they're on the caseload, and so they're part of the MAC. And I have always wondered whether we're analyzing that portion of it adequately. Secondly, I was interested to hear the comment about Clackamas Indigent Defense Corporation. I admit, I'm biased because I was a member and founder of that. But he said that they had attorneys that were taking extra cases, that they were challenged on whether they could ethically do that. Then he gave us the statistics on how well Clackamas was doing – 50% success rate in trial and on acquittals, if I understood him correctly.

And so, again, I wonder if we're looking at MAC too specifically on how we got to it. That was before my time, so I don't mean to comment on work that was done prior. But I would go back to what Judge Greenlick suggested, and that's that we have a 30, 60, and 90-day plan. We're still in crises, and I think we need to act in crises mode, making sure people get adequate representation but making sure they get representation. So, however that figures into the discussion. But I think we need to recognize that we will be in crises mode for a while, and we need to do something about it.

Jennifer Nash: Is Ms. Taylor here on the call still? Ms. Taylor, can you remind me what the next iteration of the 337 crises plans were? They went to CJC for review and compilation. And now where are we with that? Because it occurs to me that this commission might be very well served to have a refresher. Well, it wasn't presented. So, the 337 crises plans from across the state and what the current... That each... Sorry. For background, Senate Bill 337 required any county that had an unrepresented persons crises issue or that was identified by the Chief Justice to put together a crises team that was local to their jurisdiction. Those folks were tasked with coming up with a, "This is what we think could help in our jurisdiction."

They were comprised of defense attorneys, judges, prosecutors, law enforcement in each county. That information was compiled. A massive, 500-page report was put out. It went to the Criminal Defense Commission, which was tasked with compiling all that data. They put out a report about that. And then the CJC was tasked with kind of following up on that and implementation of some of those. I think it might be helpful for us to review those, because

some of this work has already been done regarding 30, 60, 90-day plans, and it would be good to revisit those to see where different jurisdictions are. That's the background for my question to Ms. Taylor about where is CJC in that.

Lisa Taylor: Yeah. So, with the crises plans, there was a presentation in, I believe, September of '23 during the Legislative Days where CJC, and us, and OJD presented on those crises plans. I could put together or get that information, but I don't really have... There hasn't been like a follow up presentation or anything, a report, that's come out of those crises plans.

Jennifer Nash: I thought they were supposed to be doing something with that data. Well, let's say this – how about for our May meeting, if we have a presentation about those crises plans or at a minimum to include the report back in the commission materials for commissioners to be able to review and we can have a discussion about what we, at this point, might want to do as a commission in June or further about some of those crises plans for the various counties. That would be just... It would also be an opportunity for providers from each individual county to provide us with information that they would like us to know about what they think might help in their particular jurisdictions. I think that would be very helpful as well. Jasmine?

Jasmine Wright: Chair Nash, weren't you inviting the Chief Justice from Multnomah County back for the May meeting anyway?

Jennifer Nash: I did.

Jasmine Wright: So, we're going to have some information from Chief Justice and some contemporaneous back and forth.

Jennifer Nash: Well, we can actually invite the Chief, Chief and ask her if she... Because she will know what's going on in her counties or will find out for us, and she could... I'm sure she would be [Chuckles] excited. I'm kidding. I'm sure she would love to provide us some information in writing if she couldn't appear in person.

Jasmine Wright: Well, interestingly enough, the Chief, Chief will be down in Klamath on May the 13th to speak to us and have lunch and stuff, and so I may bend her ear a little bit while she's down. So, in any event...

Jennifer Nash: Okay, other questions or comments? I will just say one other thing before we take a motion on the Temporary Hourly Increase Program. Director Kampf already talked about this, but I think it's really important to remember that the number of how much the program has cost so far is not how much... It's much larger than what I would anticipate it would be monthly going forward because

there was a significant period of time where two things happened. One, there were a lot of cases on the unrepresented list.

And two, it was... The program was much larger, so it covered every single person on the unrepresented persons list rather than just how it is now, which is in custody...defendants who are in custody. So, does anyone have any questions or further comments? All right. So, the motion, I believe, would be to direct the agency to make a request to the May E Board for extension of the Temporary Hourly Increase Program through December. Correct? December 2024? December 2024. Is there a motion? All right, Commissioner Buckley moves. Commissioner Mandiberg seconds I'm going to say. All right. Mr. Deitrick, can you take a roll call?

Eric Deitrick: Certainly. Chair Nash, how do you vote on the motion?

Jennifer Nash: Yes.

Eric Deitrick: Commissioner Selander?

Robert Selander: Yes.

Eric Deitrick: Commissioner Smith?

Addie Smith: Yes.

Eric Deitrick: Commissioner Buckley?

Peter Buckley: Yes.

Eric Deitrick: Commissioner Parrish-Taylor?

Jennifer Parrish-Taylor: Yes.

Eric Deitrick: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Eric Deitrick: Commissioner Liniger?

Tom Lininger: Yes.

Eric Deitrick: Commissioner Harris?

Rob Harris: Yes.

- Eric Deitrick: Commissioner Harvey is absent. With that, the vote passes.
- Jennifer Nash: All right, thank you. And we'll move on to authorizing the agency to make the position request to the emergency E Board...May Emergency... Oh my gosh, May Legislative E Board is what I'm trying to say. Director Kampfe?
- Jessica Kampfe: Thank you. These positions are positions that were identified in our gap analysis. So, as we look through the gap analysis and remediation plan, what we see is that the agency, as we transition from the judicial branch to the executive branch, two of our biggest areas of risk are around our IT infrastructure and our procurement infrastructure. And so these particular asks are targeted for those positions, and I may see if Raph Amador could be available to answer any specific questions that commissioners might have about the particular positions.
- Jennifer Nash: Does anyone have any specific questions about the positions that are being requested?
- Peter Buckley: Just if they've been vetted with the LFO.
- Jennifer Nash: Director Kampfe, do you want to talk about that? Or Ms. Taylor?
- Jessica Kampfe: I think Ms. Taylor is probably in a better position to talk about that.
- Lisa Taylor: Yeah, we've discussed these positions with LFO, especially the need for procurement. Obviously, we haven't gotten a, "Absolutely, we'll fund this," or, "There's no way we're funding these positions." But we have had conversations with them about the need for procurement. I think this also goes into our conversations that we're having closely with LFO around our organizational charts because we really need to show kind of where this procurement would live in the agency and how it differs from the policy analysts who are kind of doing some of this work right now. In terms of the IT positions, these positions were actually identified in our gap analysis that we did prior to session. And in the letter that we submitting then requesting positions for IT, we actually noted these positions as saying, "These are positions we know we need, but we're going to hold off and come back in the future to ask for them."
- Jennifer Nash: Are there other questions or comments? All right, it looks like there are none. So, with that, I'd ask for a motion to authorize the agency to request access to the five million dollar special purpose appropriation for transferring the commission to the executive branch to fund strategic agency positions identified in the May 31st, 2024, letter that is included in our commission materials. We have a motion from Judge Selander. Do we have a second? Commissioner Lininger seconds. Mr. Deitrick, can you call for a vote?

Eric Deitrick: Chair Nash, how do you vote?

Jennifer Nash: Yes.

Eric Deitrick: Commissioner Selander?

Robert Selander: Yes.

Eric Deitrick: Commissioner Smith?

Addie Smith: Yes.

Eric Deitrick: Commissioner Buckley?

Peter Buckley: Yes.

Eric Deitrick: Commissioner Parrish-Taylor?

Jennifer Parrish-Taylor: Yes.

Eric Deitrick: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Eric Deitrick: Commissioner Lininger?

Tom Lininger: Yes.

Eric Deitrick: Commissioner Harris?

Rob Harris: Yes.

Jennifer Nash: All right, the motion passes. Thank you. And we'll move on. I have I know one person that has to leave in a little less than an hour, and I'm just going to move on to the policy updates regarding preauthorized expenses and schedule of guideline amounts. I think that's a very important issue that we need to make sure we take up with enough people to do that. So, Mr. Amador.

Ralph Amador: Good afternoon, Chair Nash, members of the commission. Ralph Amador, chief financial officer for the commission. You have before you a request to make some alterations to the preauthorized expenditure policy. In the memo... I'm trying to make it bigger, sorry, so I can see it. In the memo, you'll see we do a little background stuff about where we are as far as hours being adjusted. So,

we listed out the... I'm assuming everybody has this, or should I share this screen?

Jennifer Nash: Hold on just a moment. Addie?

Addie Smith: I was just literally going to ask if we could screenshare so we could follow along.

Jennifer Nash: Yes. Also, I think, Mr. Amador, it would be really helpful to explain for people who are not contractors how it is that this works, because your memo... I understand it, and people who ask for preauthorized expenses understand it, but my guess is nobody else understands because they don't understand what the process is – what it is that we're doing and what it is that you're proposing be changed, and how it matters, why it matters.

Ralph Amador: Okay. I'm trying to figure out how I share the screen. This is different from Teams. Oh. If I push the green button, it's probably a good one. Okay. Can everybody see that?

Jennifer Nash: Nope.

Ralph Amador: No. Great. How about...?

Mona Riesterer: Do you want me to share it, Ralph?

Ralph Amador: I think I got it.

Jennifer Nash: That's good, thank you.

Ralph Amador: Okay. I just had to push the second share button that I didn't identify. Okay, so preauthorized expenses. So, for those who don't understand what that is, preauthorized expenses are the expenditures...are the additional things that are asked for when representation is needed. It's a fairly labor intensive process that has a bunch of forms that are submitted by providers...by attorneys and some by providers. So, in a nutshell, what happens is that an attorney gets a case. They say, "I need investigation on the case." They send in a form.

And this is where I will explain an Nintex form...Nintex is a company, and the form is something that...they provide a platform to create forms so that we can submit them electronically into our systems. I know Nintex was a question earlier, and that's what... When we refer to Nintex forms, these are the forms that we create in that platform that allow us to submit things electronically to the agency. So, an attorney says, "I need an investigator," or psych, or something else, and fills out a form that gets sent into our intake area. It goes

into a queue. Our intake folks look at it. First thing they do is they say, "What is it they're looking for?"

And the intake people open up the request, and they transfer them...the request stuff that's on the request into another spreadsheet. And while they're doing that, they're going to OECl, which is... I'm not sure what the acronym OECl is, but that's the Judicial Department's database to verify that the case number, the person that's being represented, that there is an order from the court assigning the attorney that's there...is in there an that the person qualifies for public defense on each one of these requests that come in.

And we get about a couple hundred to a couple thousand every month that come in for case stuff. After that is put into the intake area, it goes into another queue where we have two people... Now we have three currently. We just hired a temporary person to come in, and they go through and base it on our policies and screening criteria. They go through and make sure that everything works for it to be approved and that person is approved for work.

Jennifer Nash:

I'm going to just chime in and kind of maybe streamline... There is a... So, when you're first appointed a case as a lawyer and you need things like investigator on the case, you can do what's called a short form, which is a quick authorization. You send it in. You're automatically approved in a very...in theory...in a very short period of time with a certain number of hours, a certain number of mileage, etc., for your investigator to be able to start work. If you need something else that is...like as it stands right now, a psychosexual evaluation, you want additional staff, you want a case manager, you need some other kind of evaluation, that goes on a long form, which is a much more elaborate justification, for lack of a better way to put it, on why it is you need this, what benefit it will be to your case, why it's critically important.

Those two things are on different timelines for approval. The short forms are supposed to be approved very quickly, and the long forms, not so much. And so what's happened is we've heard... And I can attest to the validity of this because we've experienced this in our firm. The long form approval... The short forms started getting big delays. The long form approvals, six, seven weeks, which as you can imagine is crippling for a case. And it's reverberating across the system because nothing... Especially for cases where you have defendants who are in custody where there's a 60-day requirement to have their case brought to trial. You can't get approval for an evaluation for seven weeks. Then once you get approval, the evaluator may be two months out past that. So, that's what's caused the problem, and now here's the proposed solution. Sorry, Mr. Amador. I just thought I'd streamline that a bit. Go ahead.

Ralph Amador: Thank you, Chair Nash. You did a great job of streamlining that, because I've never been on your side of the fence, so I don't know what all of that is. I just know what it is to receive these. So, right here, this deals primarily with short form...dispute of the short form stuff because it hasn't been going as quickly as it should be going. So, these are the... When you look for investigator hours on the short form, these are the case types. These are the total number of hours that are particularly taken that we have on there. And this kind of slows stuff up. So, just by giving these... This is in our policies as well, but this is just here for illustration. So, additionally, short form use and approval for investigation for the following...estimated of 150 miles.

So, you get 150 miles automatically to go anywhere. You don't have to ask for that. And so we're going to... That's one of the things we're going to change. One of the questions was that if people have to go a long distance, or if they have to go early to court, to see their client, they may need to stay over. And because travel is a different request, staying over was kind of slowing things down. So, we're going to say we're going to ask to change that. The other one was forensic evaluations aid and assist. We did a temporary change to our website, and now we're asking...

And the commission said we're going to go ahead and do the aid and assist is the one they need immediately. So, we said go ahead and start doing those, and we had made a change that said our agency says to go ahead and start doing those, and we'll get retroactive approval on those just so that we can get caught up and stop bogging the system down. I think we can get to the agency recommendation, if that's okay. So, the agency is recommending to propose the following changes to the submission process. We want to increase the number of hours for PCR, PCRA, and J Law cases from 100 to 150 because that's what it really takes.

For Measure 11s, we're going to go from 80 to 120. And for A felonies, B felonies, C, D, domestic violence, BCS, and other felonies, we're going to increase it from 40 to 80 so that you're automatically going to get there. Because what typically happens now is they'll do...attorneys will do a short form for say an A felony for 40 hours, and then they'll have to turn around and do another longer form because it's a secondary request for additional 40 hours. We're going to say, "No, let's just do the short form for 80 hours because it takes..." These are just estimates. This isn't what they're billing. These are just estimates. And by changing those, we're going to speed things up at that point and cut some time out for everybody.

We're going to recommend that the approval is granted upon submission of the short form, and investigation work can begin immediately and not have to wait. We're going to recommend that estimated mileage be increased from 150 to

250 miles, in the event that somebody has to be rescheduled for hearing, our service provider has to stay overnight. And we're going to recommend that if you have to stay somewhere overnight that you can get...unforeseen circumstances, you can take one night's lodging and bill for that without having to seek prior authorization, just to accommodate everybody.

Again, we're going to authorize that and approve it retroactively. Excuse me. Finally, the OPDC is recommending that we change the initial psychosexual evaluation request on cases where the sex offense has been charged from the long form to the short form so that providers may begin work immediately. We would say that we wanted to start doing this on July...carry this through June 1 of 2024. That would give us enough time if they want to change it officially in the policy thing. Because we do our PAE policy reviews every 90 days.

So, if we do this through June 1st then we can change it through and make it official on the next policy review. We would be able to have our forms and stuff like this ready to go on Monday if the commission approves it now. On Monday, the forms and everything will be changed so that everything will reflect what's in here. We do not see a fiscal impact through this because we're doing this work already, but we'll see fewer long forms and more short forms. But, again, it's going to increase efficiency for both providers and OPDC. And the agency recommends the commission approve PAE changes as outlined in the agency recommendations. Thank you.

Jennifer Nash: Thank you. Could we stop screensharing?

Ralph Amador: Yes, we can.

Jennifer Nash: Thank you. I can't see everyone if you don't do that. Okay. I mean, I could, but I'd have to scroll down. All right. So, I'm sure there are questions or comments. So, Jasmine?

Jasmine Wright: So, first of all, absolutely this is an absolute step in the right direction. But the other comment I would have for the agency is I have heard from I would say at least two dozen contractors that the agency is essentially, my words, not theirs, nitpicking almost every request that they get, including Measure 11 and murder cases where the agency is essentially denying requests. I would just encourage the agency, if the agency can approve a request for an investigation on a murder case, the agency should approve the request and be working with the contractor to get that approved.

On a murder case, we're not talking about a petty harassment. We're talking about a murder case on a Measure 11 case. So, the agency should be working with contractors. If a CSS was filed instead of a PAE, for goodness sake, work

with the contractor to get the right form. Don't just reject the form. So, I mean, some of our contractors are very old. And so for the agency to just outright reject the form and not to be working with our contractors, and not to be communicating with the contractors...

I've had multiple contractors reach out to me and just be really, really frustrated with some of the process. And so I would just say to the agency, please work with our contractors, and please be cooperative with them. And like I said, the communications that I have gotten have not been... We're not talking about petty harassment cases. We're talking about Measure 11 cases. Please work with them. But this is obviously a step in the right direction. This is obviously what the agency needs to be working on and working with. This is obviously what we need to be doing, and I'll just stop there.

Jennifer Nash: Thank you. Jennifer Parrish-Taylor?

Jennifer Parrish-Taylor: So, forgive me if this is a naive or dumb question, just related to how this is set up. But I'm just wondering, is there an opportunity for the agency to go back and do a review of kind of what is required for approval, to see if that amount could be reduced? Kind of based on, I don't know, common sense. Like, "Okay, this happens. Of course we would approve this." So, if you're already going to approve it, just proactively approve it and take it off the list and kind of just systematically go through that process.

Jennifer Nash: I think this is part of that. That's exactly what this is. I mean...

Jennifer Parrish-Taylor: I'm talking about like a broader. Not just like, "Oh, here are these few proposals." But like overall, like let's just do this. Because we're hearing that it's holding folks up. And where it makes sense, let's just go ahead and make those changes.

Jennifer Nash: Yeah, I asked the... When this came up... I mean, so the original thought was to just increase the investigator hours, and I suggested that we add in the evaluations because we know they're most always approved. And Mr. Deitrick... And he's got his hand raised. Committed to doing exactly what you asked, is going back and going through and looking or having whoever is supposed to do that... Going back and looking through and seeing, "Okay, of all of the things we approved, how many of them are almost automatic?"

Then including them exactly in this process, because I think that makes sense. Or also my suggestion that I hadn't made before but I am now is that we look at making some of these things routine expenses so that you don't have to get authorization at all. Like in state mileage. I mean, that seems like a no brainer. Like if you have to drive... Oregon is a big state.

If you have to go anywhere in Oregon, you just get...investigators to put their mileage on their bill. You know, things like that. In state travel expenses within a certain dollar amount. Things that are really easy that will make providers' lives much better and will be able to have them do what they need to do, and won't require such a huge administrative burden. Mr. Deitrick, do you want to talk about that quickly before I take another question?

Eric Deitrick: Yeah, I did, because it goes... I wanted to provide some clarity on the agency recommendation, too, and maybe provide some context on why we fund things. There's a statutory directive that we must fund necessary and reasonable case related expenses. Those are the two lenses through which each submission is made – is it necessary, and is it reasonable. That generally goes to the service type, the cost, the amount of time requested.

If an attorney requests, for example, a psychologist on their legal team because they believe the client is not competent to go to trial, I can't think of a time where we didn't take the lawyer at their words and conclude that that request is necessary and reasonable. So, I believe one of the goals with this action before the commission is to ensure that when those submissions are made on aid and assist evaluations that the work can be done immediately, knowing that it will be approved as it moves its way through the queue. I just didn't see it in the agency recommendation four points listed, Jennifer, so I wanted to make sure we captured that when we took the vote.

Jennifer Nash: And regarding the review for the overall category of things that are authorized to... And that might not be your... That might be Mr. Amador's thing. But just to do a comprehensive review of what routinely an audit...what routinely is approved, and can we include those either on a short form if the agency identifies risks regarding approving those, or can we shift those over to routine expenses that don't need authorization. I mean, I think that makes sense for the agency to do that.

Raph Amador: Chair Nash, we are doing that now as we're going through things, as we are looking into... We had discussion during the break about the difference in forms because we changed forms, and why are we turning stuff back at this time. So, we're going to make a change there. I do have to say that some of the... We do have to have some records somewhere of a requests for services because then we have nothing to tie a bill to when we get an invoice. So, that's what some of this stuff is for. I mean, I know there are routine stuff in there, and we'll move as much as we can over to routine, but we have to be able to categorize it and make sure that we're paying for things that are appropriate and necessary, as...

Jennifer Nash: Sure.

[Crosstalk 03:20:46]

Raph Amador: So, we can't stick everything to routine, but we are going through and trying to call through... We want to make this as expedient as possible. We in no way want to be in front of people, keeping things out of the way. And, again, I can attest that we've had all hands on deck. We've hired more staff to try and streamline these things. These folks are working day and night. I, myself, did 600 of these in my evenings and weekends just to get stuff...get the numbers down. They're making great strides as we add staff on.

But, again, we're not trying to do anything... And everything... The team is listening right now, and we're making a step forward. You've got Amy Jackson, who's been at the agency for longer than I have, and she's spearheading... Excuse me. Just what you're talking about. What can we move over? How can we make improvements? And trying to be more efficient, more affective, and be better custodians of this for the commission.

Jennifer Nash: Wonderful. Thank you so much. We really appreciate it, and we know that that team is super... We know it can't be easy working right now with the short staff and how everybody is angry with them. So, I really appreciate it. Rob Harris?

Rob Harris: Thank you. So, I almost voted against the remediation plan because I did not think it included information regarding late payments. That's why I asked those questions before I voted. And I wasn't totally satisfied, honestly, with the answer because I wanted more details in there. But the answer basically was, "Well, we're going to deal with that under a subsequent action item." I think this is the action item. So, I'm looking at this under the background information. It's simply one sentence. I think the background should include... Perhaps 42 days is the average. I don't know.

I'm assuming that's what that means. It doesn't mean everything is done within 42 days. It doesn't mean it takes at least 42 days. I'm assuming that's some sort of an average. But I think... And I would request that the agency add into this memorandum so it is memorialized, and there is a statement of grievance, I guess, in there that have been reports...complaints about the lateness of approval and payment, that some people report it's, whatever...six or eight weeks, whatever the information has been received by the agency. And this is a high priority.

We understand people's livelihoods depend on getting these payments timely. And so because of that, we are making these requested changes. I think that acknowledges... And that's not to try and shade anyone who's working nights, by the way. That's just a systemic problem that needs to be admitted to and

addressed. And I would request that that amendment be done to this request, acknowledging the actual problem that we've had a lot of information coming to us over the last six months about the payments. Thanks.

Jennifer Nash: Thank you. I want to be clear. I think there is two issues. Right? There is the preauthorized payments, so authorization to start work, and then there's how long it takes to get paid. Those are really two completely separate issues, and we're dealing in this only with the preauthorized expenses. So, the preauthorized expenses... Like if I ask for... And this actually happened to me. If I ask for a psychosexual evaluation, it's six weeks out for an authorization. And it was longer. And so that's what we're dealing with. The payment issue is separate but not insignificant.

I agree, the payment issue is also a significant issue, and we really... I don't think anyone would disagree, including the agency, should be trying to pay those invoices in 30 days or less. The issue has always been, from my understanding, is not having the sufficient infrastructure and staff to be able to do that. But I don't disagree with you, Rob, that we ought to talk about that and have some commission statement about that and what our expectations and goals are.

I just don't want it to get conflated with the preauthorized expense piece because those two numbers and two processes are completely different, and they affect providers differently, but also really importantly. So, I think we do... If we want to take that up, we can do that. But let's make sure that we're clear that that's a separate timeline and a separate issue that we're addressing. Also very important.

Rob Harris: Well, I understand that. Maybe Ms. Taylor can address the question then. I'm not sure what she was referencing when I asked for clarification on the other thing. I thought she referenced there would be another action item where that either could be addressed or mentioned.

Jennifer Nash: I think I said that – that we were going to be addressing the... And I was really talking about the PAE. But I think you're right, we should talk about payments as well. I just don't want to mix that in with the motion that we're going to deal with, with this because it's a separate topic. Does that make sense?

Rob Harris: I guess. But, so, was that the prior policy item we have then? Oh, no.

Jennifer Nash: Yeah, there's two. There's the PAE processing, and then there is a schedule of guideline rate because there were some omissions that were made regarding case types and what they were supposed to be paid. So, we did not have a payment policy issue on the agenda as an action item in this...

Rob Harris: Well, yeah, and I guess that was my question – then what was Ms. Taylor referencing when I asked for clarification. I'm going to leave... I guess she's online here, so I'd ask her that question. You're on mute.

Lisa Taylor: I just need to move my microphone. I believe in response to your question, I was talking about the remediation issue of accurate and timely vendor payments. And in that issue, we give the status update about how we're in a backlog of 40 days, and preauthorized expenses experience a similar delay. And then we go into our next steps about the fact that we're going to try and bring on the accounting positions that start in July of '24 earlier. And then I think we were directed to add the action that the commission is taking right now to this section as additional action.

Rob Harris: Okay.

Jennifer Nash: Judge...