

Jessica Kampfe: ...consideration with the build out of our offices, we need to make sure that we are building the right infrastructure and scaffolding to support these people so they can be successful long term. The hourly panel's probably the place where we have the most flexibility in terms of adding people, and so putting 40 here might not be the right number. We might actually want to put a higher percentage in this POP and lower the percentage of growth that we're seeing in other areas. So, we took our best guess at how to do that breakdown, but it is maybe more art than science.

Rob Harris: Well, I mean, I think that it's a huge number, no matter what, but I think but I think you're right in terms of I've always thought that if you could get the hourly rate high enough, you could get part-time people. The people who've gone into private practice who are willing to take a few cases here and there, but don't want to do full-time public defense work, and that there was a huge untapped group of lawyers who would be willing to do that. And that, of course, as you said, does provide the most flexibility, but that's a value judgment.

Jessica Kampfe: And it's also the most risk for the agency, it's the least predictable. We have somebody – an employee – or we have somebody under contract, we have more stable than hourly.

Rob Harris: So, if this money is given, say you fund 80 positions and 40 positions of a panel, and you find that you can't fill those lead positions, would that money within the agency be available to shift it to panel? Because I want to make sure there's some flexibility. Like you say, going forward, these are educated guesses that it's 80 more than 40, right? But can you build these POPs or your budget somehow so that money is somewhat fungible between provider types?

Jessica Kampfe: So, the way that our budget is done, we have 8...or 10 distinct budget buckets, and the agency does not have the authority to move money from one budget bucket to another budget bucket. We have a budget bucket that has our trial office in it. That is actually the same budget bucket currently that [Inaudible 00:02:25] our contracts in it. So, we could presumably move between those two, although it's possible that the Legislature will create a distinct division within the agency for Trial Division. Next session, I think they probably will. And I think that they're going to isolate those funding, that would be my prediction for what's going to happen. But right now, we could actually move money between those two resources.

We cannot move money between hourly lawyers or PAE and contracts. What we would have to do is called a rebalance. So, we would work with the Legislative Fiscal Office to figure out how the budgets are tracking, where the variances are, where we really need funding to cover our bills. We'd make a proposal to an Emergency Board, or a meeting of the Public Safety Subcommittee to request moving money between buckets. And then if they agree that that was the right thing to do, they would authorize us moving money between buckets. So, it's complicated for the agency to do that, but it's not impossible. The other thing that the Legislature has the power to do is, if we have uncertainty, they could put money in a special purpose appropriation, and say, "We're going to give you a quarter of what you're asking for right now. We want to see how this plays out, and you can come back the next time the E Board meets and ask us for access to additional funding."

Rob Harris: Thank you. The final question, I guess, [Inaudible 00:04:05] means you must have the actual numbers for the cost of one FTE panel lawyer versus one FTE contract lawyer. That is also imperative.

Jessica Kampfe: Well, can I talk about POPs? Well, I will say it depends on how you bill the contract lawyers. So, if you bill the contract lawyers at the hourly rate, then it's a one-for-one. But if you build the contract out, lawyers at a different rate than the hourly rate, which I think you should bill them at a different rate than the hourly rate, then it's not a one-for-one. So, there's some decisions to be made in your development there.

Rob Harris: Well, I'm not interested in their W-2 numbers. I guess I'm interested in cases, right? So, if you assume that there's 1,578 actual duty hours, which is, I think, what the Rand study calls working on a file, right? So, it subtracts vacation, CLE time, things like that, which is how we bill, which is what we adopted, basically what we adopted for panel lawyers. And if you use 15... Because that's the number of cases they're going to be able to take, right? And then use our standards, then you sort of have an apples-to-apples comparison. But I don't know that's how you build your contract lawyer numbers. I'm just saying that I guess I would compare what are your duty hours? How many cases did you take? How much did you cost? Because those are the two numbers, right? I don't care what your W-2 says. Does that make sense?

Jessica Kampfe: It does make sense. And I know that we did this costing fairly recently with the implementation of 4002, and whether those cases would be handled by the contract and what the fiscal impact would be of that versus if the cases were handled hourly, what the fiscal impact would

be. I want to say it was like twice as much to do it hourly, but I may have actual numbers to answer your question instead of...

Bob Selander: So, to be clear, the question is, what's the difference? What is the difference in the contracts and the hourlys?

Rob Harris: What does it cost for a contract lawyer to do 114 misdemeanors, and what does it cost for the panel lawyer to do 114 misdemeanors in a year?

Jessica Kampfe: You all haven't decided what it costs the contract lawyer to do 114 misdemeanors in a year. That's POP 102. So, right now, what we have is what it would cost a contract lawyer to do 300 weighted misdemeanors in a year.

Rob Harris: But they're not going to do 300 misdemeanors.

Jessica Kampfe: So, what I'm saying is I can't answer your question because you have decisions to make before I could answer that question. So, you haven't told us what price to build the contracts at yet. So, after you tell us what price to build the contracts at, I could compare that to the hourly rate and tell you what the variance is between the two. But without having direction from the commission yet on what to build the contracts at, I don't know what the difference is at this point in time. I can only tell you what it is under our existing model, not what it would be under a future model, without getting answers from you first.

Rob Harris: Okay.

Chair Jennifer Nash: So, are there any questions or further discussion about the hourly panel? Okay, let's move on.

Jessica Kampfe: Okay, Mona, let's skip to slide 22. Okay, so the implementation of the workload model is a multifaceted thing, and I think we've started to talk a bit about the different cost drivers that are within this. And I wanted to point this out on the front end because when we start talking about implementing our workload model, it's pretty darn expensive. And we may at some point in time be needing to have a conversation about what the commission's top priorities are. If the commission's top priority is increasing pay, if it's bringing caseloads down, if it is full funding for support staff, those are hard conversations that we're going to have to have in the future. But I want to put it on your radar now, so you start thinking about it while we're building this, and that you're aware of the different cost drivers.

So, we could implement the contracts at a standard of 2,080 working hours, which is different than billable hours, as Commissioner Harris has pointed out. Or we could do it at 1,578. We could think about what timeline we want to implement this on. Do we want to try to do the full workload model in one biennium? That would be bringing the full 480 lawyers into Oregon in one biennium. Or do we want to break it out over three biennium as suggested by the six-year plan? And then when we think about the different rates that the commission could seek to implement, we could use our current contract rate consolidated into one rate. So, instead of four tiers, just have one rate.

And I will note for folks that if we were to go this direction, it would be the current rate, and we would be asking for the inflationary increase on the current rate. Additionally, our current rate that we pay per unit of lawyer has a bunch of hidden expenses in it. So, we are not fully paying contractors the cost of their investigators. We are not paying at all specifically the cost of a legal assistant, a paralegal, a case manager. So, if we were to pay the current rate consolidated into one rate, and the commission also directed the agency to seek funding for core staff, it would actually be a significant increase in the amount of money that providers were getting because they would have less expenses billed to that current rate. Does that make sense?

Brook Reinhard: Can you say that one more time, that last sentence?

Jessica Kampfe: So, right now, if your current rate is I'm buying one unit of lawyer from you, you are paying out of that the legal secretary, the paralegal. You're also paying part of your investigation...

[Crosstalk 00:11:27]

Brook Reinhard: Yeah, I have a pie chart that shows what I've...

Jessica Kampfe: for the investigators.

Brook Reinhard: ...yeah.

Jessica Kampfe: Right. So, there's that whole pie chart...

Brook Reinhard: Yeah.

Jessica Kampfe: ...you are taking out of that rate.

Brook Reinhard: Yeah.

Jessica Kampfe: If we paid you the same rate, but we actually paid the expenses that are represented in that pie chart, you could do a lot more with that rate of pay...

[Crosstalk 00:11:46]

Brook Reinhard: ...yeah.

Jessica Kampfe: ...less things that are being billed against it.

Brook Reinhard: Yep.

Jessica Kampfe: So, that's the difference between starting to put the support staff in there, we start line-iteming support staff for people. So, even though the current rate of pay per lawyer wouldn't go up significantly on paper, the amount of expenses that are billed against that rate would be fewer.

Brook Reinhard: Right.

Jessica Kampfe: Another thing the commission could choose to do is increase the rate. You could look at the same economic survey that you used for the hourly rate to adopt either a market match or a market leader approach. And that that gets very expensive. There are benefits to being under a contract in terms of predictability and risk that hourly folks take on. They take on more risk by being hourly. They might not bill a full 40 hours every week. They may have, as we've talked about, delays in getting their payments. So, there's some risk inherent in going hourly that contractors don't have, which could be an argument in favor of not paying the market match or market leader rate. And then we talked about earlier the full cost of core staff or whether a commission only wants to pay for additional lawyers is another driver. All right. Next slide, Mona.

Brook Reinhard: So, I think that your market match just – sorry, Director Kampfe – that your market match just what the trial vision is? Market match would be that because that would be the market, right? The market you'd price the nonprofits against is trial vision, not the hourly folks. Because I agree. Hourly folks have a different risk. It doesn't need to be apples to apples.

Chair Jennifer Nash: It's actually based on the analysis that Moss Adams did.

Jessica Kampfe: Yeah. It's that economic study that Moss Adams did. And then part of that study, the commission made a decision about whether they wanted us to do a market lag, which currently we are in a market lag situation right now, or if we wanted to do a market match, or if the commission wanted public defense to be a market leader. The incremental change was, I believe, about 11% between each one. So, this chart is a little confusing to look at, but bear with me. In order to... Light blue, far left, our current service level, as we stated, because the forecast is forecasting a need for 65 more lawyers, we will see a need for an increased funding for current service level lawyers. And that's represented. This is our MAC rate if we were to keep everything the same, the far blue column is sort of what your cost would be, and then everything else is an incremental cost as compared to that.

So, if you were to use our current rate, which is roughly \$250,000 per lawyer, and you were to start implementing 33% of your workload model. So, here we are increasing by 80 lawyers using that same current service level rate. You can see the incremental difference in the cost in the second light blue column. If you were to try to do all 100%, all 480 lawyers in this time, you'd get to that 100% light blue. You can see how the cost increases depending on which model [Audio cuts out] the MAC model with the current rates because that's what our current service level budget is. So, as we're making decisions about what to implement in terms of the contract funding, these are the decisions that the commission's going to need to direct the agency and build in the POP. Do you want us to build it at one-third implementation within the next biennium? That puts you in those 33% workload columns. And then what rate do you want us to implement it at? The agency's recommendation is to do the current rate, but also to invest in the support staff funding, which would be realized at the increased rate practically.

Chair Jennifer Nash: So, what you're saying, just to sort of recap, use the current contract rate, but don't make the providers pay all out their expenses out of it. Use the current contract rate for lawyers, and then add additional funding for all the support staff, which would, as a practical matter, significantly increase lawyer rate.

Jessica Kampfe: That is the agency's recommendation, but it is a decision for the commission.

Chair Jennifer Nash: No, I understand. I just wanted to make sure I understood what you were saying.

Jessica Kampfe: Because the agency's position is that in order to effectively implement the workload model, you need to invest in all of that core staff. And so that would allow you to get an investment both in the contracts and the workload model, starting bringing down those caseloads, and an investment in the core staff. So, it gives you sort of the most robust approaches. But the commission could say, "You know what? We don't want to invest in core staff. We just want to invest in attorneys, and we want to do it at 33% at the 1,578." And if we get that direction, we can move forward on that direction too.

Chair Jennifer Nash: I'd like to hear what Brook has to say about that.

Brook Reinhard: Thirty-three percent means 33% of what the national standards would be because that's what we adopted in Oregon, is that right?

Jessica Kampfe: The national standards prorated for 1,578.

Chair Jennifer Nash: No, he's asking about the blue.

Jessica Kampfe: What color?

Brook Reinhard: Any of the columns.

[Crosstalk 00:18:17]

Jessica Kampfe: It's 80 lawyers.

Rob Harris: It's 33% of the increase that we need.

Brook Reinhard: I see. It's how many lawyers we add. You're projecting on that.

Jessica Kampfe: So, we're projecting adding 80 lawyers to contracts. So, the 33% is the cost of adding 80 lawyers on top of the current service level budget. So, it's incrementalized...

[Crosstalk 00:18:42]

Brook Reinhard: I understand that. I was getting confused by that. I guess my perspective is I think the absolute minimum is having the true cost for support staff, so you finally get to an apples-to-apples comparison across different provider types. I think, however, since we're asking for POPs, I think it makes sense to have one POP where you're saying, "This is the full cost and matching market rate for Trial Division, so you know what it costs,"

and this is the amount you're only going to do with this other, but the other thing should be at bare minimum full cost for support staff. I think that's the most client-centered way to approach it because it's support staff that gives PDs the ability to actually deliver results to clients. And that's true for any type of lawyer. You need that support staff to do a good job.

Chair Jennifer Nash: So, you're saying two POPs?

Brook Reinhard: Yes.

Chair Jennifer Nash: Break this out into two POPs.

Brook Reinhard: Yes.

Chair Jennifer Nash: One would be blue with core staff, and then the next one would be orange.

Brook Reinhard: Yeah, because I think we need to ask the legislation what we want, and I realize the political realities of what we may or may not be able to get. So, I would suggest two.

Chair Jennifer Nash: What are other people's thoughts?

Jessica Kampfe: Can I...?

Chair Jennifer Nash: Yeah.

Jessica Kampfe: I think it might be helpful to share some sort of general numbers around how much money we're talking about here. So, we expect the current service level increase, if we were to do it under a MAC model, that our current service level budget would increase by about 280 million. That's not part of a policy option package. That would be part of our current service level unmandated caseload. To be able to do the 33% implementation, that is about a \$40 million POP in blue.

Chair Jennifer Nash: That's with staff?

Jessica Kampfe: No, no. That's just the lawyers. The lawyers alone would be 40 million. In blue, the support staff alone would be 380 million because we don't pay for it at all right now, whereas we're paying for lawyers right now. So, the biggest actually incremental change is... The support staff is a very expensive component of it. And then if you were to do the 1,578 at 33% at a market leader rate, you're looking at approximately a \$400



million POP for 33% implementation. And then if you ask for the 33% implementation of the support staff on top of it, that's an additional 380 million. And we're not even talking about juvenile yet. So, just adult criminal, you would be very, very high numbers pretty quickly.

Vice-Chair Susan Mandiberg: I have a quick question. It has to do with legislative reality, maybe. Tell me if this is a silly question. If we, in a POP or in two separate POPs, break out lawyers and support staff, what's the risk of the Legislature saying we're going to fund lawyers, but we're not going to fund support staff? And I know you cannot be a competent criminal defense attorney, if you don't have support staff. [Laughter] I mean, that's a reality for people who practice law, but I don't know that it's a reality for the Legislature. And so am I wrong to fear that consequence if we break this stuff out?

Jessica Kampfe: You're not wrong to fear that consequence. That's why I was talking to you all about difficult conversations we're going to end up having to have around prioritization. If we walk into the Legislature and say we want a billion dollars of new money next session, people are going to say, "Well, what do you really want?" And then we're going to have to have really difficult conversations around what the priorities are. And the agency is asking the commission to set those priorities for us so that we are empowered to implement the things you're asking us to implement when we walk into those difficult conversations. So, I do think there is a very high risk that if we ask for everything, somebody else is going to decide what our priorities are. And if we want to be the ones that are leading that conversation, we need to be upfront about what the most important things are.

Vice-Chair Susan Mandiberg: So, again, tell me if you think this is the wrong way to think about it. If we are going to provide attorneys for all of the cases in the forecasted projection of the number of cases there are going to be, and we're asking to provide a lawyer for all those cases, we will have to decide between lawyers and support staff and investigators or whatever. What if we said to the Legislature, "You can't practice law without... You can't practice criminal defense without having support staff and investigators and all the things we know we need. And so unless you're willing to give us this huge amount of money, we can't solve the problem with competent lawyers." So, if we fund everything that we know a lawyer needs, we can only do X number of cases, even though that's not all the cases that are going to be forecast. I mean, that would be another way to approach it that would put the problem in the context of what this crisis is really about. Because otherwise, we're going to say, "Oh, yeah,

we'll fund all the cases, but we're not going to give people competent representation." And I don't want to do that.

Chair Jennifer Nash: So, worst case scenario, we get \$40 million. I mean, I'm saying if we say 33% to meet our forecasted caseload, we would need \$40 million more for lawyers. If they funded \$40 million, then everything stays flat. Is that what you're saying?

Jessica Kampfe: So, our CSL will increase from this biennium to next based on the forecasted caseload. So, our CSL increase is about 280 million.

Chair Jennifer Nash: Yeah, I'm kind of...

Jessica Kampfe: So, that's like MAC model, current rates of pay. And then to start moving to a workload model, under the current service level rate to the 33%. So, to get to that blue column, you need about 40 million more, but that does not get you any support staff.

Chair Jennifer Nash: So, it's for 420 under the blue, 780 under the orange. Is that the right math?

Jessica Kampfe: Under the orange, it ends up being...

Chair Jennifer Nash: Four-hundred million for lawyers and 380 million for staff.

[Crosstalk 00:26:24]

Chair Jennifer Nash: At 33%.

Jessica Kampfe: It ends up being about 400 million for lawyers and...

[Crosstalk 00:26:36]

Jessica Kampfe: ...and then 380 million for support staff.

Chair Jennifer Nash: Yeah, so it's 420 versus 780.

Rob Harris: Try and explain this to me, because this is the contract people only, it's not the hourly's, correct?

Jessica Kampfe: That's right, yeah. This is one...

[Crosstalk 00:26:53]

- Rob Harris: You say a lawyer, we're sort of talking FTE sort of lawyer, right?
- Jessica Kampfe: Mm-hmm, full-time lawyer.
- Rob Harris: Right. So, explain to me why a lawyer sitting there working full-time taking their caseload, their W-2 says 2,080, but their duty hours are about 1600, 1700, maybe they're 1400, maybe they're 1800, depending on the lawyer. But they're getting paid the same because these are contracts, they're FTE models. Why would you even use 2,080, or 1,570? It has nothing to do with the number of either billable on-duty hours or W-2 hours. So, I don't understand why that would change anything. Is your model assuming that these are like 0.75 lawyers when you say 1,578? Is that why the number changes? Because I don't understand that at all. I mean, these are supposed to be pretty much per seat payments.
- Jessica Kampfe: I want to say did we, in the second two models, did we match it to the hourly rates, what [Inaudible 00:28:05] rate? So, that would be the cost if you were to do the contracts at what their hourly rates are for those two hourly.
- Rob Harris: Well, then it seems like it would be backwards, unless what you're telling me is you need more lawyers because you're doing it at 0.75. Well, that's the problem. You have no numbers on these graphs. I got colors. I got no numbers. So, tell me, explain to me if you can [Inaudible 00:28:29] why a person sitting in Brook's office doing a full caseload is going to cost 20% more if we use a different... Where does that number figure in?
- Chair Jennifer Nash: So, when we priced these out, we said... Again, we took an hourly rate and we times'd it by 2080.
- Rob Harris: What is the hourly rate?
- Chair Jennifer Nash: That's not what we're going to do so let's not...
- Ralph Amador: So, the hourly rates out of the study for market leader was 207.
- Rob Harris: It's what?
- Ralph Amador: 207 market leader.
- Rob Harris: Thank you.

Ralph Amador: And 271 if you use [Inaudible 00:29:15], that's the hourly rate.

Rob Harris: Okay.

Ralph Amador: Right? And what that included was it was the market pay rate, 10% addition for taxes, 30% addition for benefits, and then total cost for... Then we added overhead. And for the contracts, we didn't add a profit in, but for the hourly, we did add a profit in.

Rob Harris: I get all that, but if someone asks you, "Then how do you change the numbers?" Because you're paying the same hourly rate to the person sitting in the seat.

Ralph Amador: Well, you're paying more for less hours.

Brook Reinhard: I find myself oddly agreeing with Rob on this.

[Crosstalk 00:29:59]

[Laughter]

Brook Reinhard: What I was thinking you were saying about 1578 is you were billing an open workload with 1578 for actual attorney workload of this is the amount of time working on the cases. Of course, somebody in a PD office should be working full-time, but the number of projected cases of how many cases you're buying per year in the open workload, I think should be consistent with the 1578. The pay doesn't have to be. Actually, it shouldn't be. It should be the correct market rate, but these are two different things.

Jessica Kampfe: And so our economic study was for an hourly rate.

Brook Reinhard: Uh-huh.

Jessica Kampfe: It's not a contract economic study.

Brook Reinhard: Right.

Jessica Kampfe: So, it's kind of an apples-to-oranges comparison, which I think is what we're hearing the commission call out. The agency's recommendation is actually to stay in this blue space because the others are applying hourly rates to a contract model.

Brook Reinhard: I see. I think. So, then the light blue, can you – I'm sorry to ask you to do this again because I know I'm sure everybody's hungry, it's a long time we're going over – but those three numbers in the light blue, the 33% means that you only have 33% of folks needed to increase capacity. And the third on the left, 100% is 100% of folks needed.

Jessica Kampfe: So, the Moss Adams study is a six-year plan. So, the 100% is to do all six years...

Brook Reinhard: Sure.

Jessica Kampfe: ...in one fell swoop. And the 33% is to get you a third of the way there.

Brook Reinhard: Because we're talking about a biennium.

Jessica Kampfe: Because we're talking about a biennium. So, 100% is the full cost. And then the 33% is the biennium cost.

Brook Reinhard: But the 33% would still be full cost of support staff. Correct?

Jessica Kampfe: It would be full support staff for the 33% increase in lawyers.

Brook Reinhard: It gets you part of the way there. Right?

Jessica Kampfe: Yeah. So, just to do the support staff, because we don't currently pay for support staff in a way that we should, to do the MAC model current service level, support staff would actually cost you about \$330 million because we don't pay for it at all right now.

Brook Reinhard: Right.

Jessica Kampfe: So, then if you were to do it for a model of a 33% implementation of the workload plan, and you fully staff the support staff that would be needed for the 33 implementation, it moves it from the 335 to 382 approximately, 382 million.

Brook Reinhard: Okay.

Jessica Kampfe: So, the incremental change on support staff between CSL and 33% is actually pretty small, but the bulk of it is because it's something we haven't done in our contracts previously.

Brook Reinhard: Okay. Gotcha. So, then I guess from my perspective, I think both of the numbers in the middle and the right don't make any sense for these

comparisons, and if we're going to do anything other than a POP of say 33%, what I think it should be is simply comparing what the Trial Level Division is paying people to try to get that for a market match. Because I don't think these other comparisons make any sense, and I think they lose credibility by asking.

Chair Jennifer Nash: Yeah.

Rob Harris: I think the other issue we're going to have if I were a legislator, I would say, "Well, right now that rate includes your staff."

Chair Jennifer Nash: Mm-hmm.

Rob Harris: So, let's back that staff number out of your CSL. You want it as a separate line item. And you end up with sort of a wash. I just don't think a legislator's going to... They know that this covers overhead right now, and you're talking about... Now, maybe you could say this covers a 0.6 staff person or something, I don't know. Maybe you're saying this is adding additional staff instead of covering current overhead. But I understand what you're doing here. I just think whatever that line item is for staff, you better somehow justify it as additional staff that can help us increase capacity or something like that. And investigators certainly shouldn't be paid in addition to... Historically, some people have had investigators on staff and historically, it hasn't been on staff, it should be additional pay. And I think it is right now.

Supervisors? I don't know. That sort of builds more rates. You got a lawyer who's less experienced, but if they're getting the same number, part of that pay goes to the supervision. But we do have supervision. I think now it's fine. Paralegals, legal assistants. We should have paralegals and legal assistants in a ratio of one to four. I mean, I know I always did. I always have a lot more than that. So, I'm not sure why that's in there.

Case managers? I think that's a holistic defense sort of thing, and I think that that is something that's very nice. I don't know how that's... Maybe for contractors, that works. I don't know if that means that they've got to have them on staff as a W-2 employee or that's a number that they're going to provide. Because right now, we can ask for case managers. Does this affect contractors? I don't know how that number's going to work. My point is a lot of some of the stuff you're asking for as staff I think is probably already included in our base number that we've done historically, but some of it is not. And I'm just throwing that out there as to how you might want to reconsider these problems.

Chair Jennifer Nash: Okay. And with that, I'm going to table...

Male: Chair Nash?

Chair Jennifer Nash: Go ahead.

Male: Oh, Chair Nash, I just noticed, and I'm not sure if you can see it, but Mae Lee Browning from OCDLA.

Chair Jennifer Nash: Yeah, I know. Thank you. I appreciate it. I did not see that, but I have several messages from several people about it. So, I'm going to table this discussion for now because Ms. Browning would like to be able to present, she needs to leave the meeting, about the POP proposals regarding recruitment. So, I'll back up and have her do that pretty quickly. Thank you. Sorry, Mae Lee. We've gone way over. You're muted. You're muted, so we can't hear you.

Mae Lee Browning: Thank you. Tristen and Jana, I have to make it over to the conference. So, I appreciate this.

[Distortion 00:36:15]

Chair Jennifer Nash: Right up here. Okay. Yes. Thank you.

Tristen Edwards: All right. Good afternoon, commissioners. And thank you for the opportunity to provide comment on OCDLA's recruitment and retention proposal. My name is Tristen Edwards. I'm an attorney at MPD. And for the last four years, I've had the privilege of chairing OCDLA's Diversity, Equity, and Inclusion Committee, also known as the DEI Committee. This committee works towards increasing the diversity of the criminal and juvenile defense bar, as well as towards improving retention through developing community and promoting a sense of belonging amongst OCDLA's members who are Black, Indigenous, and people of color, also referred to as BIPOC. The committee is comprised of defenders, investigators, and law students of color who work collectively to recruit, mentor, and provide community for BIPOC defenders and people interested in entering the defense field.

As a mixed-race Black woman who moved to Oregon to become a public defender, I can personally attest to the deep importance of having a supportive community of color as it pertains to both recruitment and retention. When I came to Oregon, I found no such community, and I spent the first years of my practice questioning whether I'd made the

right decision. Most of the attorneys of color that I knew were wrestling with this same dilemma, and most of them chose to relocate. That was really hard for me. In 2020, when OCDLA invited me to start the DEI Committee, I jumped at the opportunity to develop the community that I had hoped to find when I moved here. Now it warms my heart whenever I receive emails from people of color seeking community within the defense bar, as there is now a space for them to experience belonging and to connect with people who can help them hold and address the challenges of practicing in a predominantly white jurisdiction.

Community is essential. The promise of community encourages BIPOC individuals to come to Oregon, and the experience of community is what encourages them to stay. This is a statewide effort. We hold virtual gatherings throughout the year for people to connect and share their experiences. We host in-person social hours in Portland, Salem, Eugene, and Bend. Mentorship is also a huge component of the committee work. We connect with both college and law students to bring them into the defense field. Most students of color do not benefit from generational privilege. Providing them with opportunities to form connections with attorneys and receive guidance on how to gain experience is essential to leveling the playing field. We invite law students onto the committee and have already had two law student representatives transition to being staff attorney members of the committee as they graduated and took positions at public defense offices. Jana Baker, who you will hear from shortly, is one of those students. First a stellar law student at Willamette and now an SPPE candidate at PDMC where she has already had multiple trial wins.

Lastly, I want to speak to an opportunity we had this year to provide bar scholarships to three women of color seeking to become criminal defense attorneys. Thanks to a one-time donation, we were able to reduce the immense financial barriers many students of color face when preparing to take the bar exam. We read applications that spoke to severely disadvantaged backgrounds, with one applicant describing periods in her life when her family had had to live out of their car. It is hard to imagine how these scholarship recipients would have been able to obtain their bar license without that scholarship. With SPPE, there's an even greater opportunity to increase diversity. In the last two months, I have been informally contacted by three Black attorneys ready and willing to begin work as a public defender in Oregon, but unable to take the financial hit required to study and sit for the bar. I am extremely appreciative to OCDLA for demonstrating a true commitment to diversity in their support of the DEI committee's work. I invite OPDC



to join OCDLA in promoting a more equitable and diverse defense bar by adopting the recruitment and retention proposal.

Chair Jennifer Nash:

Thank you very much.

Jana Baker:

Good afternoon, commissioners, and thank you for the opportunity to provide comment on OCDLA's recruitment and retention proposal. Thanks in part to Tristen Edwards, Mae Lee Browning, Shaun McCrea, and many others, I'm proud to say I'm a public defender, a field I was not open to pursuing a year ago. I've worked at a public defender's office during my last year of law school that I spoke to earlier and will be continuing to work there under the SPPE program. Graduated from law school in May and look forward to being a licensed public defense attorney in a few months. As a first-generation, non-traditional woman of color, navigating the legal world has been challenging at times. However, I can say it's because of the members of the OCDLA community that I can sit here before you today having successfully completed law school and with confidence say I found my calling in public defense.

I'm here to talk to you about OCDLA's law school outreach program. I was president of Willamette's OCDLA law school chapter for the last year and a half. The criminal defense law student chapter is for students interested in pursuing criminal defense, and we introduce students to criminal defense, providing network opportunities for them. In September, OCDLA brings an Intro to Criminal Defense Panel to each law school to expose students to the wide range of defense work available, including juvenile, appellate, nonprofit public defense, consortia, private defense, and rural practice. These attorneys who present are also open to mentoring law students. The chapter has also been able to encourage rural practice by inviting rural attorneys on separate occasions to come and speak and connect with students.

OCDLA also hosts events throughout the year and students are invited to those and have the opportunity to connect with defense attorneys, which has helped several students make employment connections. I'm a firm believer in networking and connecting students to OCDLA attorneys was my primary goal during my presidency. Having the opportunity to host events connecting OCDLA and students has proven to be successful and is one of my proudest achievements of law school. I've watched our criminal defense chapter go from non-existent to one of the largest groups on campus, I've watched students who had no interest in criminal defense find the place they belong, and I've watched as interest in criminal defense spread across campus because of OCDLA.

Additionally, OCDLA has provided myself and several students with scholarships to attend conferences, which is not only assisted in networking, but also learning how to use and apply Oregon laws in practice. I hope you'll adopt and incorporate OCDLA recruitment and retention proposal and keep it going every year. With the next few years, OCDLA recruitment will be especially crucial as more schools, specifically Willamette, are committed to adding more students of color who need to be connected to OCDLA diversifying our defense bar. With funding, we can expand our outreach to law students and recruit and support more students entering public defense, just as it did for me. Thank you.

Chair Jennifer Nash:

Thank you very much.

Mae Lee Browning:

Thank you, Tristen, and thank you, Jana. My name is Mae Lee Browning. I'm the legislative director of OCDLA, and I'm here to talk about four things. Please interrupt me with questions at any time. Number one, I'm going to talk about our \$30,000 ask for the remainder of this biennium. Number two, I'm going to talk about the rollup of our retention and recruitment plan into OPDC's plan and the request for the 2025-27 biennium. Three, I'm going to ask the commission's direction as to whether or not you would like us to develop a plan for recruiting in colleges and community colleges. And number four, I'm going to talk about funding for summer stipends for clerks working in public defense entities and bar exam scholarships. I'm going to talk about all four now.

But first, why fund us? Exhibit A, Tristen Edwards' comments. Exhibit B, Jana Baker's comments. Exhibit C, the hundreds of defense community members outside right now. And also, because we already have these relationships established, we can get up and going immediately. And number three, we can collect data, report back, and work together with OPDC on how to grow defense attorneys in Oregon. Okay. Number one, we're asking for 30,350 for the remainder of this biennium, which we assume can come out of existing funds. Now, what is that money going to buy? It's going to buy an expansion of things that we already do. We can expand our in-person gatherings that Tristen mentioned. We can expand that to the juvenile conference in May. We can expand it to our September conference. We can add events for LGBTQ defense attorneys and partner with the LGBTQ law school chapter and do the same with attorneys with disabilities and law students with disabilities. We can add a geographic location and add more rural locations to these in-person gatherings. And then increase law student involvement at the conferences by helping offset the cost of going to the conferences, like

reimburse for gas and hotel room. And then lastly, pay for law student memberships.

This money will also buy more panels at law schools and these panels will increase exposure for students to criminal defense, and we will have a specific panel in January targeted to help students with their public defense applications. So, we can review their resumes, help them interview prep, and go over all their materials. This money will also buy you more involvement in the Oregon State Bar's OLIO program, that's Opportunities for Law in Oregon. It's the OSB's diversity and inclusion program. It's a recruitment and retention program aimed at students from historically or currently marginalized communities. And last but not least, the money will buy you a matching of the bar exam scholarship money that we provided this year. Tristen mentioned we provided \$10,000 in scholarships and it's for whoever applies. So, we had four applicants, and we gave out three scholarships of \$3,000 each. We're asking OPDC to match that \$10,000 right now, and it's included in this \$30,000, so that we're going to make the pool of available money in April of 2025 \$20,000. And we can advertise this program and incentivize and help recruit people into public defense. So, that is number one, the \$30,000 ask for the remainder of this biennium.

Number two, I'm asking the commission to direct the agency to roll up this recruitment and retention proposal in their budget and make it maybe a single line item and make it part of ongoing CSL because we need to have this going for three years. I need to meet with first year students and have this going and collect all that data. So, we need to have some certainty that this will be around for three years, and we'll have the funding for three years. That is 118,200, and that money buys everything that I just mentioned, and also OPDC will step up their matching for the bar exam scholarships. So, with the remainder of this biennium, we're asking for a \$10,000 match. Then we're asking for the next year a \$20,000 match and then a \$30,000 match. OCDLA will still contribute \$10,000, but we're asking OPDC to like double and triple their match. I'm going to pause there because that is this biennium and next biennium and it's an expansion of our recruitment and retention proposal. Happy to answer any questions. And if I see none, I'll keep on rolling because I know time is of the essence.

Number three, I would like the commission to let us know if you would like us to expand our recruitment efforts into community colleges and colleges. We already have a pipeline into Portland State's Explore the Law program. That's a two-term program focused on getting students ready to enter the legal field and go to law school. Tristen and I are

connected with that program, as are many of the BIPOC defenders because they serve as mentors to these students. If you would like us to develop more, we can reach out to community colleges and colleges, talk to their professors, bring in panels to their criminal justice classes. So, that's number three. I'm going to keep rolling.

Number four, for the lawyers on this committee, we recently received an email from the Oregon State Bar president saying that there is a shortage of lawyers in Oregon period, across all practice areas, and that we have less lawyers now per capita than we did 10 years ago. And what this says to me is that the market is going to be really, really competitive and all of us employers have to really step it up. We need to focus on growth and jump on every opportunity that we can. So, an opportunity to recruit more students to public defense is to pay for their cost-of-living expenses when they are clerking a public defense office or other public defense entity. And also more bar exam scholarships. In my proposal, I mentioned SPPE. I totally low-balled it. That's done, you voted on it, that's great. I'm talking about now cost of living expenses for the people to come to Oregon and study for the bar. That could be administered through the commission. I urge the commission to fund these things. I know you're a market leader in the hourly rate, and we have to be a market leader here in this very competitive market.

So, those are all my comments, but I want to mention one thing. Out-of-state recruitment. In-state recruitment, lowering caseloads, increasing pay and out-of-state recruitment, and a whole bunch of other things have to be all together. It's all part of one package. And OPDC should engage in aggressive out-of-state recruitment because they have the low caseloads and the high salary to attract lawyers into Oregon. While we, OCDLA, partner with OPDC to grow the attorneys in Oregon, which as you know, will take time. It's three years to get out of law school. And then for the college students, we're looking at an even longer time period. So, I'm happy that the commission noticed that and that that's going to be included somewhere as well. Happy to answer any questions.

Chair Jennifer Nash: Does anyone have any questions for Ms. Browning? All right, thank you very much. Ms. Browning, appreciate it.

Mae Lee Browning: Thank you.

Chair Jennifer Nash: All right, we're, as everyone can see, running out of time, and we have a number of items to discuss, including continuing to discuss the policy

option packages. It seems to me that there's still a fair amount of questions and discussion that people would like to have about the value decisions that the commission needs to make that underlie those POPs. My thought is, obviously, that we need another commission meeting, and I'm sorry, I don't like doing that, but I think it's necessary in the next couple of weeks. And also, if it doesn't make sense to have a workgroup meeting for commissioners, like Commissioner Harris and others that want to do, and Brook, that want to do a deep dive into the numbers and really into the underlying assumptions of some of these POPs – and whoever else – as long as we don't have a quorum of voting members, we can have a workgroup meeting that doesn't have to be publicly noticed, and then that might make it a little more streamlined for the next commission meeting. What do people think about that?

Rob Harris: I think that's a great idea. I'd be willing to spend the time because I realize there probably are answers to these questions. And unfortunately, given the public meetings laws, it's difficult for us to have these discussions before. And I really don't like having these discussions at a commission meeting where there's so many questions. It feels like I'm putting people on the spot, but I feel like it's the only time I can ask these questions. And I would prefer to do this in a workgroup with staff and the executive team and any other commission members that would like to participate.

Vice-Chair Susan Mandiberg: I would love to have a workgroup with people who know how to do deep dives into budgets and numbers, which I don't, it's not in my experience. And I would like those commissioners to report to the next commission meeting we're going to have in basic English terms that we can all understand. Not that I don't trust the agency reports, but I expect that in that workgroup what the agency has to say will be translated into what the commissioners understand. And I would actually like to hear both, but I'd like to hear it from people who've been in that workgroup, if that's possible.

Jessica Kampfe: I had to do that...

Chair Jennifer Nash: Is this for a workgroup or commission meeting?

Jessica Kampfe: That's for a commission meeting.

Chair Jennifer Nash: Okay.

Jessica Kampfe: Those are dates available for a two-hour commission meeting.

- Chair Jennifer Nash: So, we don't have everyone from the commission, but of the people who are here now, I want to do a calendar check so Mona is not trying to run people down and I'm not trying to run people down. So, are people available on June 20th from 9:00 to 11:00?
- Vice-Chair Susan Mandiberg: Would it be virtual?
- Chair Jennifer Nash: Virtual, yes.
- Rob Harris: Yes.
- Brook Reinhard: [Inaudible 00:54:50]. No, I'll be there. I'll make it work, give somebody else a try.
- Vice-Chair Susan Mandiberg: No. I'll be on a training.
- Chair Jennifer Nash: Part of the problem is if we have one no, then we're done here, but we don't have the full commission here to be able to figure out if there's a quorum.
- Jessica Kampfe: We can send those dates out. Do you want to just say what they are?
- Chair Jennifer Nash: Yeah.
- Jessica Kampfe: So, the commissioners can be looking at their calendar between now and when you do that, because it just might very well be like in an hour.
- Chair Jennifer Nash: Friday the 21st, June 24th from... I can't do any date on June 24th. But June 24th from 9:00 to 11:00, June 26th from 9:00 to 11:00, or in the afternoon, I'm also not available that day. Frankly, my best available date's the 21st. But those are the times. And June 20th in the morning or 2:00 to 4:00. And I can't do that.
- Vice-Chair Susan Mandiberg: I'm not available any of those dates.
- Chair Jennifer Nash: Yeah, [Inaudible 00:55:50] 21st, Friday. Well, we'll send out a Doodle poll to find out when people are available. And in the meantime, let's also schedule a workgroup. And we're going to send out the Doodle poll, and I need you to respond within four hours if possible, or I'm going to call everyone myself.
- Brook Reinhard: To our backup emails as well as the commission's.
- Chair Jennifer Nash: Yes. Both emails it'll get sent to.

Vice-Chair Susan Mandiberg: Having a meeting this second week of July, is it too close for July meeting?

Jessica Kampfe: Oh, yeah. Well, we need direction from the commission to build the agency requested budget, which you will see in July. So, I mean, we need to do this now so that we have time to actually build it for your July meeting.

Male: [Inaudible 00:56:53].

Chair Jennifer Nash: Your input would be very helpful. Okay, is there anything else that we should...

Jessica Kampfe: Just so that commission knows, I just want to manage expectations. By delaying the vote today, we are unlikely to make the bylaws commission meeting material deadline for the ARB in July.

Chair Jennifer Nash: In July?

Jessica Kampfe: Yeah. Because we only currently have three weeks to build that for you all, four weeks to build that for you all to make that deadline. So, if we wait a week and a half to make the decision, we won't be able to start the process. I don't think we'll make the commission meeting bylaws deadline to present that to you in advance. So, you'll have less time for the ARB in July.

Vice-Chair Susan Mandiberg: I don't think we're ready to vote on this today, given the conversation.

[Crosstalk 00:58:17]

Jessica Kampfe: Yeah. I just want to start setting that expectation so you all know.

Brook Reinhard: Yeah, but that's different. That's not the POP deadline. That's for bylaws, right?

Jessica Kampfe: Right.

[Crosstalk 00:58:11]

Vice-Chair Susan Mandiberg: It's getting enough information to [Inaudible 00:58:12].

Brook Reinhard: Right. Or...

[Crosstalk 00:58:16]

Chair Jennifer Nash:

That's okay.

Brook Reinhard:

Per our bylaws, we're not...

Jessica Kampfe:

Per your bylaws, you're supposed to get it five days in advance.

Brook Reinhard:

Right. We'll get it later because of this, but still before the meeting.

Jessica Kampfe:

Yes.

Chair Jennifer Nash:

Does anyone have an objection to adjourning the meeting? Just checking, do we need to formally do that? All right. Thank you. Thank you, everyone. Sorry, we went over, but...

Brook Reinhard:

Jennifer, three-hour workgroup, what do you think we need to do that?