

Chair Jennifer Nash: Good morning and welcome to the July 16th, 2025, meeting of the Oregon Public Defense Commission. I'm Jennifer Nash, the chair of the commission. We have a number of agenda items to cover today and some possible action items to discuss, but a couple of preliminary matters before we get started.

First, I'd like to welcome our new voting member of the commission who was appointed by the governor to the general member of the public commission position. Philippe Knab is the director of the eviction defense and re-entry program at Washington State Office of Civil Legal Aid. He was previously a public defender at Bronx Defenders, a supervising attorney at the Legal Aid Society in New York City, and a supervising civil rights prosecutor within the New York City Commission on Human Rights. More recently, he served as a managing attorney for the Northwest Justice Projects Office in Vancouver, Washington. He's admitted to the Oregon State Bar and earned a law degree from Brooklyn Law School and a bachelor's degree in philosophy with honors from Macalester College in Minnesota. He was born in Mexico, grew up in mainly upstate New York and now lives in Portland. Welcome Commissioner Knab, we're very happy to have you here and to help you. [Laughter]

Phillipe Knab: Great, thanks so much. I really appreciate it. I'm excited to join you all. I believe in what we're doing and providing counsel to indigent defendants, and I hope that some of my perspective doing this work over the last 20 years can kind of help work on some of the things here in Oregon. And so, I'm excited to dive in. I'm happy to answer any questions. And I think Commissioner Nash did a great job of kind of giving my bio. The one thing I will say is that I'm committed to this work, and I think it's kind of clear through my resume that I've been working in this space for a long time. I have the privilege of overseeing a appointed counsel program in Washington state, working in rural jurisdictions, working in urban jurisdictions, dealing with attorney crises. So, I'm hopeful that we can make the system even better here in Oregon, and I'm excited to start. So, thanks so much.

Chair Jennifer Nash: Thank you. Does anyone have any questions? Okay. I'm just realizing I need to pull up my little timer for public comments, so let me do that really quickly. We have a number of people who requested... Well, before I move on to public comment, just a couple of other things I want to mention about vacant commission positions. So, we have three vacant commission positions right now, and all of those positions are awaiting appointment by the governor. Names have been forwarded to the governor's office and are working their way through the process.

One is a voting member that is a practitioner with juvenile law experience, which is not a current practitioner, but someone who has juvenile law experience. Actually, it doesn't need to be a practitioner. It's anyone who has juvenile law experience. And then the two non-voting positions are open, two

non-voting positions, a public defense provider from a rural area and a public defense provider from an urban area. Between our last meeting and now, Commissioner Reinhard, who's long promised to resign from the commission, did do that. [Laughter] And so, that position is open and names have been forwarded to the governor's office for appointment. So, we are waiting for that. They are, as you can imagine, pretty busy with work that's been going on related to the session, and their commission and board appointment process is a little backed up, but we expect, we're hoping by August, but probably more realistically by the September meeting, we'll have three new commissioners, which will be a lot, but we're looking forward to that.

We received a number of public comments for today's meeting. I usually read who we receive public comment from for written public comment, but I'm not going to do that because there were 22 written public comments that were provided. They are published. They were all provided to the commission. Commissioners have reviewed them, and they are published to our website if you would like to review those. We have six requests for oral comment, oral public comment. And because of that, I'm going to be limiting the amount of time for public comment to two minutes. And those people who've requested public comment are Emma Decker, Olcott Thompson, Kathleen McLaughlin, Steven Wilson, Troy Hartwell, and Erin Howell. And then so with that, in no particular order, I'll start with Emma Decker. Ms. Decker, you can begin.

Emma Decker: Good morning. My name is Emma, and I am a defense investigator in Portland. I help facilitate monthly continuing education sessions for investigators who are new to the field. And in that capacity, I spend a lot of time advising new PIs on how to build their career and their caseload. And one of the most common questions that new PIs ask me is whether this work is financially stable, and I don't sugar-coat it for them. I tell them that because the hourly rates for state cases for investigators are so low and the payment times are more than 30 days, that it's really hard to string together a livelihood if you work only state defense cases as an investigator. And what happens is that we end up losing the really talented PIs to other kinds of investigation work that pays them what they're worth. The hourly rate for defense investigators needs to be raised to \$75 per hour, as we have requested. I will not be taking any cases for less than that, and I'm advising all of the new PIs that I work with to do the same. Thank you.

Chair Jennifer Nash: Thank you. All right. Mr. Thompson, Olcott Thompson.

Olcott Thompson: Here I am. Good morning, Chair Nash, Vice Chair Mandiberg, members of the commission. I'm Olcott Thompson. I'm here, I was here as a private bar member, but it appears from the latest proposals from the agency that the agency is no longer, at least it's not on the table, trying not to pay attorneys for their travel time. So, I will, if okay, quickly switch hats to being the executive

director of the Marion County Association of Defenders, and a quick comment on the attorney qualification standards beyond my written comments. It is incredibly useful to allow providers a period to comment. The agency's reputation right now is it will not talk to, nor will it listen to providers. So, here's a great place to start to change that. Solicit comments and not for just a brief period of time. Providers have multiple things on their plate. For consortia, the administrator is usually a part-time job, all too often fairly poorly compensated. Consortia administrators juggle being an administrator with representing clients, and that often leaves little time to provide comments. Give administrators time to provide comments. Thank you. And as I think a number of you know, I am always available and willing to answer questions about Marion County, MCAD, consortia, the history of this agency, its predecessors. Thank you for the time to comment.

Chair Jennifer Nash: Thank you, Mr. Thompson. All right, Kathleen McLaughlin. Doesn't look like I see her, so we'll move on to Steven Wilson, who I also don't see. Let me look at who's on the... Do we have Troy Hartwell?

Troy Hartwell: Good morning.

Chair Jennifer Nash: Oh, there you are. [Laughter]

Troy Hartwell: Yes.

Chair Jennifer Nash: Your video was on, so I missed you. Go ahead, Mr. Hartwell.

Troy Hartwell: Good morning, board members. My name is Troy Hartwell, I'm a private defense investigator. I work within an agency, and we have a team of investigators, so it's a little different how we work. What I'd like to present, though, is that I'm submitting a support for an increase in pay. However, I'd also like to say that taking the DPSST test alone is not sufficient for training for defense investigators. There's no structured training in the state of Oregon for defense investigators, and that's very important for somebody whose freedom and future is on the line. We have a training program, but we do not tailor that to the public, so that is something I think we need to look at. I think \$59 an hour is simply too much for somebody who's untrained and inexperienced to take on defense work because the attorneys themselves are not investigators, so they rely on somebody who already knows what they're doing. To be real quick, basically, that's what it is. I hear a lot of people saying, "Pay us what we deserve, pay us more." Well, I think we need to earn that as well, so I would like, as our community, to increase our value to the agency, and I guess I'm looking at the board members on how do we do that to increase our pay. So, thank you.

Chair Jennifer Nash: Thank you for your public comment, appreciated. Erin Howell.

Erin Howell: Hi, good morning. Hi, my name is Erin Howell. I've been in the criminal defense world for 18 years. I've worked as a private investigator. I'm here to just kind of speak up about the rate, the rate increase, it's needed. One of the things that I've been doing the last couple years is I've created a group for North Portland investigators. I create continuing education credits. We meet up; we try to help newer PIs get into the workforce. Last year, two years ago, I was able to train a new PI because of the higher rate. It's really hard to train an investigator. I can't just refer my attorneys an investigator that has no experience. So, I was able to mentor and train somebody, and it was based off having a little bit higher rate so that I could do it, but with the rate going back down to 55, I have a new PI that I'm trying to train right now, and it's really difficult unless she can like get trained for free, and nobody can do that. I have more work than I can handle. I'm not going to take work for under 75 an hour. I'm trying like crazy to help all the attorneys. They need us. There's not enough of us. They need more trained investigators. The higher rate is only going to help us help them and help lower the unrepresented people.

So, I just want to stand up for the investigators because our work is really important, and you guys need us, and I really hope that you guys can find a way to keep the rate at 75 like we had the last couple years for the unrepresented because it made a huge difference for me. It made me be able to live in Portland with my kids, and when it goes down, it makes us struggle. So, that's pretty much all I have to say about that but thank you for your time.

Chair Jennifer Nash: Thank you. All right. Looks like we have Mr. Wilson, but he joined the meeting on the wrong end of things, so he's unable to give public comment. So, Mr. Wilson, we just ask that if you can join, I can slide you back in or just submit written comment. We'll still accept written comment for 48 hours after the meeting. Also, we don't typically comment on public comment, and let's just say I'm not really officially doing that, but I do think there are a couple things that should be noted just generally, and providers will know and others from meetings that we've been having recently is that the commission is working toward trying to adopt some kind of process and forum where we elicit feedback from members of the public and providers in a different manner than just public comment, so that we are able to have a more interactive and a longer period where we receive information and can have more of kind of a back-and-forth with providers.

We've done that in April and then again in June, and the commission and I think the public found it very meaningful and very helpful to be able to do that. So, the commission will be in its work group sessions continuing to try to workshop that to figure out the best way to do that. And there are a number of large projects that are coming up, most notably the contract procurement, which

we'll hear about later, and the agency will be soliciting provider input in a very specific manner, and we'll hear about that more.

And then also people may have noted that there was a change to the agenda from the initial published agenda and then the revised agenda, and that is that the revisions to the policy, specifically expense policies, was pulled from the agenda. We will not be considering issues related to travel time at this time because that's something that needs a much broader commission discussion, and it's not something that we are really able to talk about and vote on in the same meeting. So, I made the decision to have that pulled from the agenda and we will be talking about that in our work group session, which I will get back to commissioners about because I know there's a number of people, myself included, who won't be able to make the August meeting on the date it's set, and I'd like to have as many commissioners there as possible. So, we'll try to get that scheduled at a time when we can have more robust participation because that is going to require a much more robust discussion, and a discussion about the financial realities of where we are given the budget and the policies that we have. So, with that, I see that Mr. Wilson is now on. So, Mr. Wilson, thank you for joining on the panelist side, and anytime that you are ready, you can go ahead and get started with your public comment.

Steven Wilson:

Thank you. I apologize for getting on the wrong side and trying to do this from my car. Thank you, Chair Nash, members of the board, and Director Sanchagrin. My name's Steve Wilson. I've been an investigator doing defense work for OPDC in its various forms for over 22 years. I'm a member of DO, Defense Investigators of Oregon. I'm the co-chair of the OCDLA Investigators Committee. I have testified or made public comment, I should say, before this board numerous times in the past, often about this same issue. And I want to talk within my couple of minutes about the proposed rate hike. I believe that this rate hike is insufficient for a number of reasons. It is not competitive with payments that investigators receive from the feds and from surrounding states. It does not take into account the overhead of investigators. It does not meet the recommendations of OPDC's own study that was done through Moss Adams. It is not keeping us in pace with inflation.

If we go back to the 1988 rate and try to keep pace with inflation, that brings us up into the low 70s. In particular, if we're talking about the metro area where the bulk of our cases are, this does not keep us in pace with other cities that are similarly situated in terms of cost of living. Tacoma, for example, their rates start at 70 and go up to 95. All of this limits the number of investigators who are willing to stay in or willing to enter this field, and that means that right now we have kind of a shrinking pool of investigators for attorneys to pull from. If you speak with attorneys or if you're a working attorney, you're probably aware of this. It can be very difficult to find an investigator right now. And I think the

practical effect of this is that you're taking investigation work out of the hands of investigators and putting it into the hands of attorneys.

Attorneys are not trained to do this kind of work. Obviously, it's inefficient use of taxpayer dollars if you're paying an attorney twice as much to do the work that an investigator should be doing, and it's an even more inefficient use if they're not trained to do the work. We should, as part of OPDC, be actively trying to increase the number of investigators and other support staff, such as paralegals, who can take non-legal specific work – motion writings and appearing in court – we should be having the attorneys focus on that while the investigators and paralegals and other support staff are doing everything else for them.

Chair Jennifer Nash: Mr. Wilson, I appreciate your comments. And I let you go a little long, but we're past the public comment time.

Steven Wilson: All right. All right. Thank you very much for your time. I appreciate it.

Chair Jennifer Nash: Thank you. All right. And with that, that concludes the people that I have. Yes, that concludes the people that requested public comment, and we'll move on to our next agenda item, which is an update regarding the unrepresented persons in Oregon courts. I should also mention that Director Sanchagrin is not going to be here today. He is on a well-deserved vacation with his family, and Deputy Director Perfecto will be presenting in his stead. And with that, Deputy Director Perfecto, take it away.

Emese Perfecto: Good morning, Chair Nash, Vice Chair Mandiberg, and commission members. I'm Emese Perfecto, deputy director of OPDC. And today I want to present on the Oregon Public Defense Commission unrepresented persons update. So, I will go ahead and Adrian... All right. So, more recently we have seen a slight but gradual reduction in the population of in and out of custody unrepresented individuals. However, when we look at the full panel, it shows an upward trajectory, which is mostly attributed to the spike in the mid-2023. Nonetheless, when looking at the data after January 2025, we are seeing a slow decline for both in and out of custody unrepresented individuals. While the population of overall in and out of custody unrepresented individuals continues to gradually decline throughout the state of Oregon, we are noticing some of these positive developments transpire throughout various crisis counties as well. For instance, in Marion County, we are seeing in custody and out of custody unrepresented individuals generally decline. Additionally, we have also observed in Multnomah County that in-custody unrepresented individuals have declined overall.

Adrian Manriquez: I hate to interrupt, but I don't think the slides are matching what you're sharing.

Emese Perfecto: Oh.

Adrian Manriquez: I don't think they're matching.

Emese Perfecto: Sorry.

Adrian Manriquez: No, I should have spoke up sooner.

Emese Perfecto: So, I'm on slide four, Mara. I apologize because I'm looking at my own slide deck and my notes. Do you have that, Mara?

Mara Hoaglin: Is this the right one? Pie chart?

Emese Perfecto: Yes. No, the THIP program overview. I apologize. It's slide four.

Chair Jennifer Nash: We can see that now.

Emese Perfecto: Okay. A brief overview of our THIP program across time. The legislature is no longer funding THIP going forward, which means that there are no new THIP appointments as of July 1st, 2025. While there are no new THIP appointments as of July 1st, we continue to pay out for preexisting THIP cases. That is, there is still funding for THIP cases that were assigned on or before June 30th, 2025. However, there is not an inflationary increase, meaning the THIP numbers that were current before July 1, 2025, are the numbers that would continue for cases assigned before the THIP program ended.

Chair Jennifer Nash: So, what you're saying is there's not an hourly rate increase. It's going to be the same until the program concludes and there are no new assignments, but anyone who was appointed before July 1st, 2025, will continue to be paid until the case is closed.

Emese Perfecto: Yes.

Chair Jennifer Nash: Okay, thank you.

Phillipe Knab: I'm sorry. Can I also just make a brief request? When there's an acronym like THIP cases, if you would be so kind as to explain what that stands for. I'm relatively new to the Oregon criminal defense practice, and I'm sure there's other people on the meeting or viewing the meeting that could benefit from that.

Emese Perfecto: Okay. And Chair Nash, I'm sorry. I've always known it as THIP too, and I know that they've told me it's...

Chair Jennifer Nash: It's Temporary Hourly Increase Program. So, the commission voted starting in 2022. The first iteration was any person who appeared on the unrepresented list, and then it was refined shortly thereafter to be only people who were in custody on the unrepresented list were paid an enhanced hourly rate. Investigators were paid \$75 an hour and lawyers were paid \$200 an hour for the highest, and I believe it was 164 or 175, I can't remember, for the remainder of the cases. And that program has now come to an end because the legislature discontinued funding for it as of July 1st.

Emese Perfecto: All right. Next slide. These are the Betschart assignments coordinated. Here we have our update regarding our Betschart case assignments that are being coordinated by our analysts at OPDC. You can also see that the majority of these cases are being assigned in Multnomah, Douglas, Washington, Coos, and Marion counties. We can also see the impact of our Trial Division team cumulatively over time as they have been taking Betschart cases as well. Next slide, number six. Now let's turn our attention to the Oregon Trial Division cases.

Chair Jennifer Nash: Actually, I have a question, and I don't know if you have the answer to this or if someone who's on may. Since the Temporary Hourly Increase Program was discontinued, I know it's only been two weeks, but have we had difficulty finding attorneys, hourly attorneys to take Betschart cases because the rates have decreased? Do we know that?

Emese Perfecto: I have not.

Chair Jennifer Nash: Do we know if there's forced releases?

Emese Perfecto: Yeah, I have not heard any. In my one-on-ones, I've not heard any comment about this, but I can double-check and send back a response to you.

Chair Jennifer Nash: Okay, thank you.

Emese Perfecto: All right. So, I'm going to move to slide number six, the Oregon Trial Division. So, on this slide, we can see the Trial Division case pickup rates and these cases are from the unrepresented lists that our three Trial Division offices have taken since 2024. The majority of the cases taken have been in Jackson, Marion, Multnomah, Washington, Coos, and Douglas counties. Additionally, the majority of the cases these offices have taken are felony low, misdemeanor low, and probation/parole violations. All right. And that is the end of this presentation.

Chair Jennifer Nash: Does anyone have any questions about that?

Emese Perfecto: Pardon?

Chair Jennifer Nash: I was asking if any commissioners had questions. Let me scroll through. Okay. I can't see everyone's hands. All right, it doesn't sound like it. Thank you very much for that information. All right, moving on next to Mr. Amador and the budget update.

Ralph Amador: Good morning, Chair Nash, Chair Mandiberg, members of the commission, and guests. My name's Ralph Amador for the record, chief financial officer for the commission. Before we get into the slides, one thing I have to mention is that we're closing the '23-'25 biennial. We haven't made adjustments to those figures yet because we're waiting on some bills to be signed before we can actually move money in the systems to reflect what actually happened. What I can tell you is that while we had some concerns of overspending our budget, we did not overspend our budget in any of the appropriation areas, and at one point we had gotten the PAE budget down to \$1 and the Court Mandated Expense down to like \$100. Now there'll be some more adjustments and stuff like that, but we spent about every single dollar that was available that we could move from the agency into covering the cases, hourly cases and such, to make sure it was compensated.

We are taking, as we will every biennium, we are taking some invoices into the next biennium, but that's just the normal course of our business is that we have a continuing repertoire of bills that we continually pay. But we did end the year, biennium, on a very good note, which was the accountants and our accounts payable staff did a tremendous job of making sure we balanced our cash budgets to where they needed to be. So, I just want to give a little shout out to them for the great work that they did. Now, on the commission, Chair Nash, you've requested that we go through the budget and show what we got and what we didn't get. So, here's a slide presentation to go through that and show some of the highlights of what we got. I know that Lisa Taylor will again go over some stuff in her legislative thing, but this is the division-by-division thing. So, if Mara can go to the next slide. Right here, we started out with – and this is just historically what folks like to see – this is what we asked for, this is what we got as far as policy option packages.

Chair Jennifer Nash: Mr. Amador, I'm going to just give you a little... So, there are acronyms in here – ARB, LAB, FCMS. If you could just, when you're doing your presentations, kind of spell those out, that'd be helpful.

Ralph Amador: I will do that, Chair. Thank you very much for the hint, and I will slow down my pace as I notice my time. I stopped looking at my clock. So, on this first slide, we have our ARB, which is the agency request budget, which is what the agency requests at the end of August of each budget prep here. And our LAB, which is our legislatively adopted budget at this time, it will become a legislatively approved budget after the short session. Our policy option packages are

changes to policy or new programs that we are recommending or asking for in the upcoming biennium. We will start this exercise for the next biennium, '27-'29, probably around November or December of this year as we go into it. There's no rest for the weary as far as budget's concerned. Here we have a list of eight policy option packages that we requested in our agency request budget, the first of which is POP 101, which is the FCMS, which is the Financial Case Management System, which is a project, an IT project that's going to change the way we do business, both on the financial management and case management systems that's an in-flight project that was approved to go forward. We had POP 102 with a criminal workload augmentation that was to change the way we pay contracted providers that had a big price tag that wasn't moved forward. POP 103 was...

Chair Jennifer Nash: To put a finer point on it, POP 102 was to convert from the MAC system to a workload model.

Ralph Amador: Yes, ma'am.

Chair Jennifer Nash: Include staff... Well, no, POP 103 was staff investment. Anyway, go ahead.

Ralph Amador: Yep, POP 103 was a direct investment, representation investment. This was to add additional state offices throughout the state. We had highlighted three particular offices. We were going to add about 40 more attorneys over the course of two years and additional staff. This package also had a request for 11 support staff in the Appellate Division, and this was passed on as well. POP 104 was a service provider rate stabilization. This was to increase the hourly rates and investigator rates and also mitigator rates. This again was passed over. POP 105, juvenile workload augmentation, was similar to POP 102 for going to workload models and combining juvenile and PCRP into one budget. Again, that was passed over. POP 106 was robust agency support investment. This was to get necessary agency staff to continue the efforts of the commission and get things done and answer the call that was being done for the agency. This was passed over. POP 107, temporary hourly increase carryover program. This was money requested so that we could continue to pay the increased rates for the cases that carry forward into the current biennium, the 2025-27 biennium. You'll see it was approved at \$18 million. About 7 million of it went to PAE and the remaining 11 million went to Court Mandated Expense for attorney costs.

Chair Jennifer Nash: And PAE is Preauthorized Expenses, which are for expert witnesses and investigators.

Ralph Amador: Yes, ma'am. Thank you. And POP 108 was a recruitment and retention package that we had put together and was passed on. So, from our policy packages, we've got \$35 million of investments into the agency. But at the bottom of this,

you'll see a smaller chart, which I wanted to add, just so we had a clear picture of what the investments were for the agency. We did get mandated caseload adjustments for the Adult Trial Division . Parent Child Representation Program, Preauthorized Expenses, and Court Mandated Expenses to the tune of about \$70 million were added to our budget so we could cover increased caseloads, which in our final forecast was supposed to increase about 15.82% overall. Next slide, Mara.

This first area is the Executive Division. You'll see that each of these has a chart of what our current service level was, what the governor's budget recommended, and finally, what the legislatively adopted budget was, and they're all similar. I'll highlight what we got. What we asked for in GRB... The Governor's Recommended Budget is an area where the agency puts forth an Agency Recommended Budget, and then the governor's office takes that budget and fits it in their paradigm for how they see things can go forward in accordance with what the governor wants and needs for her cabinet. You'll see there's some packages that were funded in the Governor's Recommended Budget but not included in the legislatively adopted budget. We asked for a direct representation, operations policy person, and we asked for a manager for operations and an analyst for operations and an executive assistant, which we did not get because, again, package 106 was not approved.

But what did happen in the Executive Division was that they eliminated the general counsel position because we are in the executive branch now and we are supposed to use the attorney general and Department of Justice for our representation. Package 802 abolished the one interim. We had two internal audit positions, and we eliminated one of them because it had been vacant for a good portion of the biennium. And we also transferred the other internal audit position from the Executive Division back to the CAP, which is Compliance, Audit and Performance Division. We also transferred one operation policy analyst 3 position, and the funding from the Executive Division back to the Administrative Services Division. We had moved that over to cover our Public Affairs, and they wanted us to move it back. And if we can get a good case to move it back again, we'll try.

Chair Jennifer Nash: I just want to add a little footnote, and you can correct me if I'm wrong. It's important to note that the general counsel position was eliminated, which is going to result in a person losing their position, but also, we were not given any additional funding to pay for the Department of Justice legal advice that we're going to be needing now. So, that is going to put a budget strain on the agency because we have to figure out how we're going to pay for those services that we won't be having anymore because we don't have general counsel.

- Ralph Amador: That is correct, Chair Nash, that is correct. When we were doing our initial budget bill, we asked for an exception for attorney general costs and for IT costs because that's another area that we were funded differently. Those were both denied in the initial budget bill. Those will be areas that we will ask for possibly in a short session to get backfill funding for, and if not, they will certainly be part of a policy option package, if not part of the overall budget bill for the subsequent biennium that's going to happen at '27-'29. So, one way or another, we're going to ask for that money to make us whole.
- Phillipe Knab: Sorry, I have a quick follow-up question. I was wondering if there's any estimation on how much the attorney general is going to cost versus how much the in-house counsel costs and what that budget hole is going to look like.
- Ralph Amador: Chair Nash, Chair...Knab, I do not have those figures, but I can have the budget office do an analysis of that. I don't think they're going to be commensurate... They may be commensurate with the \$600,000. Hopefully, we don't spend that much over the course of the biennium, but we really don't know. I know that the attorney general positions, they're about \$300 an hour for the time, plus the other staff members that they charge us for, and they're billed in increments of six minutes. So, it is pretty costly, but again, had we retained the money in the budget, we could afford to pay for that, but the money was removed. So, it is a definite hole.
- Chair Jennifer Nash: Also, we've never had to do that before. So, it's an unknown unknown because we transitioned to the executive branch January 1st, 2025. So, we've had in-house general counsel. So, we don't know how much we're going to need to rely on the Department of Justice. We will definitely need to rely heavily in the next few months because we're in the contract procurement phase, and they're going to have to do a lot of legal review, and all the work associated with getting provider contracts in place. But I mean, this is our first time dealing with this, so it's hard to know what we're going to spend. Go ahead, Mr. Amador.
- Ralph Amador: Next slide, Mara. This is the Compliance, Audit, and Performance Division. We asked for some positions in this area; we didn't get them. What did happen was they moved one internal auditor position from the Executive Division to CAP, and we are transferring a vacant deputy general counsel position from the Compliance, Audit, and Performance Division to the Adult Trial Representation Division to handle a program that was established in that area for expeditious trial, or I can't remember what it's called.
- Chair Jennifer Nash: It's for specialty courts, right?

Ralph Amador: Specialty courts, yes, in Marion, Washington, and Multnomah counties. This position will focus on those areas, and there's somebody that can speak more eloquently about that than I can.

Chair Jennifer Nash: I think that maybe Mr. Arntt can do that, but I think the difficulty is it's a 1.0 position, but it was spread over three counties, so I don't think we should be thinking of it as a body as much as it's additional funding for the Trial Division to deal with those courts in those counties because you're not going to have one person that's going to go to three counties handling three different courts. So, I think that's still in the development stage of what's going to happen with that.

Ralph Amador: I would agree, Chair Nash, thank you. Next slide, Mara. This is the Appellate Division . There's relatively no change in this budget. We did ask for, I think, 11 positions to help out with their caseload because they have not had any support staff added to there, but their caseloads have grown, and there have been other requirements on them for other things, but that did not make the cut, and there were no legislative adjustments made to this division. Next slide, Mara. The Adult Trial Division , there was a lot of activity in this one. This is the budget we used to contract folks with, entities with. There was a reduction in the TRB that was not forwarded into the LAB, or I'm sorry, there's a reduction in the Governor's Recommended Budget that was not adopted in the Legislatively Adopted Budget. Well, what happened in the Legislatively Adopted Budget was there was a reduction of \$1.7 million to this area to make up for the anticipated misdemeanor caseload savings for the new law school program of approximately 1.7 million. The thought was if we're going to pay for a law school program that's going to do cases, then that money needs to be moved over there to account for that, and that money sits in another budget we'll talk about later.

There was a Legislative Investments, and this was mainly because we had some budgeting errors. When we built the budget, some money was taken when it should have been taken because the numbers looked alike, and we didn't catch it. We did notify the governor's office and the LFO when we did it. That's why it's included in here as a correction. Mandated caseload, as I mentioned before, there's about \$32 million that was added for mandated caseload, both in the Legislatively Adopted Budget and in the Continuing Service Level budget. And House Bill 2005, there was \$1.1 million added for civil commitment funding, changing the way commitment proceedings are provided, and we anticipated a workload increase there.

Chair Jennifer Nash: So, I think it's worth noting for the Adult Trial Division that it looks like, when you just look at the raw numbers, oh, the current service level budget, the legislature funded a lot more than the current service level budget, so that's an increase. But all of that increase, and then some, was eaten up by the caseload

increase. So, it's not really an increase, it's either flat or a decrease because we're expected to do more work, and that's what the money is for, not for increase in rates. Even though we are providing an increase in rates, we didn't get a huge increase from the legislature. Is that right, Mr. Amador?

Ralph Amador: Chair Nash, you are correct on that. The rates we did use to calculate to get this money were a 6.8% increase, which was the standard inflation for the entire state. And that was the basis of most of our increases that we're providing, is 6.8% increase to standardize across, just because of the current budget environment.

Chair Jennifer Nash: Okay, thank you.

Ralph Amador: Next slide, Mara. This is the Juvenile Trial Division. Again, same calculations, we used a 6.8% increase to get the rates to get this. There was a reduction of \$3.1 million in the governor's recommended budget that was not included in the legislatively adopted budget. There was a reduction of \$1.3 million to correct an error in CSL. So that was, it looks like an issue, but it's really not. They should have had that money anyway. So that was corrected. Again, part of the other corrections. You'll see another correction in court mandated expense as well. There is some increase in fund shifts for 4E funding. 4E funding is foster care funding that we get. We receive other funds and those are federal funds that we receive as other funds from the Department of Human Services. That is because some years ago, there was a change in foster care funding that allows some costs for representation of children to be paid for with federal funds.

Chair Jennifer Nash: We should put a little asterisk by that because that money could go away immediately and then we're going to have to figure out what to do.

Ralph Amador: You are correct, Chair Nash, that if for some reason these entitlement funds are taken away, they're not currently on the slate to be taken away in the federal areas and we are in direct communications with Department of Human Services on a regular basis to monitor those as they start reconciling their budgets. But again, if in fact that money is taken away, we would lose \$7.3 million out of this budget. Also that \$7.3 million, it's called supplanting. It means that we're directly substituting general fund for federal funds or other funds. Generally, we get 25 cents on every dollar we spend. There's a whole calculation, but roughly 25 cents is reimbursed for every dollar we spend. That is if we do have qualifying expenditures. As by name in PCR, in a Parent Child Representation Program, we ran into the problem of not having enough qualified expenditures. So we ran a shortfall and had to move general fund to backfill and we luckily had that done. There's also a reduction for mandated caseload of \$300,000 in this division because of the caseload was projected to go down a tiny bit. Next slide, Mara.

Pre-authorized expenditures. These are the investigators, these are the mitigators, the expert services, and everything else that we do to help the attorneys represent folks. We have a budget of \$101 million in general fund, other funds, which is 4E money. Again, 4E money's new this biennium. So there are qualified expenditures in this area that are associated with representation of juvenile cases that we're hoping to get that money, which brings our total up to \$102.4 million. Package 104 was not approved. It was approved by the governor's budget, but not approved in the legislative budget. But what did happen in the legislative budget was there was a reduction of \$3.9 million for travel and expert services. That was a reduction. A larger reduction was proposed by the agency, but this is the amount of money they took. They didn't take it. It was removed from our budget. Package 107 is the Temporary Hourly Increase Program carried forward, carryover. We were given \$10.6 million to cover cases as they progressed into this next biennium. There was also a \$10.6 million general fund reduction due to statewide general fund resource constraints. There's not a general fund out there today. We took a reduction here of \$10.7 million. There was, again, a fund shift for E-funding. Again, there's anticipated money that we could get there. And then the case load was increased \$14.9 million based on the increase of 15.82 % increase in our forecasted case load for this budget.

Chair Jennifer Nash: Okay. So I just want to kind of go over this a little bit. So the agency, the commission requested that hourly rates in Package 104, POP 104, Policy Option Package be raised to \$205 and \$230 per hour for attorneys and \$75 an hour for investigators. That was adopted in the governor's recommended budget that was not funded in the legislatively adopted budget. Instead, the legislatively adopted budget allocated a certain amount of money for investigator and hourly attorneys. Well, actually, this is not hourly attorneys. This is expert witnesses. And then from that, the agency essentially took our current investigator rate and added a 6.8% inflationary increase just like for attorney providers, correct?

Ralph Amador: Yes, ma'am.

Chair Jennifer Nash: Okay. So, we were not funded by the legislature at \$75 an hour and the agency does not have the money in the budget to adopt \$75 an hour for investigators?

Ralph Amador: Correct.

Chair Jennifer Nash: Okay. And in fact, the original policy that we're not talking about today that the agency is requesting about reducing travel expenses is directly related to the cut that we received to the budget for travel and expert services?

Ralph Amador: Correct.

Chair Jennifer Nash: Okay. All right. Does anybody have any questions about that before we move on? All right. Thank you.

Ralph Amador: Next slide, Mara. Court Mandated Expense. This here is the area where the hourly attorney, this is mainly hourly attorney costs. There is some psychological expenditures as they are assigned by the court to the Oregon State Hospital. There's about \$100,000, I believe, that we budgeted for that. We have a budget of about \$69 million. We have additional 4E funding in here. It's not the \$6.5 million that you see in the category. It's more about 1.9 or 1.8, maybe \$2 million of 4E expenditures for qualified expenditures for juvenile cases. The remainder of the other funds is for the ACP, which is the Application Contribution Program. That's where folks fill out paperwork to see if they qualify for public defense. That program is run by the Oregon Judicial Department. We have a fund shift with them. We get the money, we give it back to them is how the program works but that's what some of that other fund money is in there. It's about \$4.5 million.

As the chair mentioned before, Package 104 was approved by the governor's budget, but it was not approved by the legislatively adopted budget. That shows the money right there, 32 million for attorney rates and rates of 205 and 230 for them, and then the rates for investigators. It was anticipating to add 40 new panel attorneys at an increased market rate and it was not carried forward. But what did happen was Package 90, there was a reduction of \$1.9 million for traveling and expert services. Package 107, Temporary Hourly Increase Program carried forward, \$11.1 million for provided for expenses for attorney costs at the Temporary Hourly Increase Program rate until those cases are exhausted. Package 1806 was the other correction, other end of the corrections that were done that we talked about from the other areas. We talked about the four year fund shift and then mandated case load provided an additional \$6.9 million in the May forecast based on the anticipated increase.

Chair Jennifer Nash: So the increase from the current service level to the legislatively adopted budget is made up of a math error, the THIP Carryover, the temporarily increased carryover, and then the caseload increase.

Ralph Amador: Yes, ma'am.

Chair Jennifer Nash: And the current proposed hourly rates for attorneys is similar to investigators, which is to go back to the base rate and add a 6.8% inflationary increase.

Ralph Amador: That's correct, ma'am.

Chair Jennifer Nash: Okay, thank you.

Ralph Amador: Next slide, Mara. Trial Representation Division, these are in-house council attorneys. What was in the GRB but did not make it, a reduction of 1.6 million. The direct representation investment was to fund 97 positions for this area. Again, those were not carried forward. But what did happen in here was Package 804, the deputy general counsel from the Compliance Audit Performance Division was transferred here. There was a legislative investment of \$64,000 to reclassify two senior deputy attorneys to become chief deputy attorneys so that we had supervisory capabilities in the Portland area and in Medford and not just have one chief deputy in Salem trying to manage the entire state. It was too big of an effort at that point.

Chair Jennifer Nash: And just a reminder and for our new commissioner, they're the direct level representation. The state trial division is a new program now to... It started in, I think the first offices rolled out in September of '23. It was up to full staffing in approximately probably a year ago, right?

Ralph Amador: Yes.

Chair Jennifer Nash: Yeah.

Ralph Amador: One year. Yes, ma'am.

Chair Jennifer Nash: Yeah. We are under a mandate by the legislature in an incremental mandate to have a certain percentage of all representation to be provided by all... Sorry, I didn't mean 100%. It's like 2025 maximum of 30% by 2032 of representation to be provided by the trial division. Ultimately, the governor's recommended budget, our request and the governor's requested recommended budget included those investments to meet the statutory requirements. Instead, the legislature funded zero. So I think we're behind now because we are not at our mandated and we cannot be at our mandated level, this biennium because the growth in the trial division was halted by the legislature. Commissioner Harris.

Robert Harris: Thanks. Ralph, how many of those positions are lawyer positions? How many are, and how many MAC are included in this in these offices?

Ralph Amador: Commissioner Harris, thank you for the question. There are 20 attorney positions in this, currently in the Trial Representation Division. Is that what you were asking me or were you asking how we were in a POP?

Robert Harris: How many in the Trial Division. There's 20 attorneys. Do each of those carry a full caseload or is their MAC more like 16 or something?

Ralph Amador: I believe that they do... The other ones who do not carry a full caseload are the chief deputy attorneys because they have to supervise, but they do carry a caseload at this point. I'm not sure 100% on what the MAC is, but I do know that they are adhering to the MAC standards just like every other attorney in the state.

Robert Harris: Yeah, all right. Thank you.

Ralph Amador: Yes, sir. Next slide, Mara. More Parent Child Representation Division. There was nothing proposed for the governor's recommended budget that was approved. But what happened in the legislatively adopted budget was, there's some residual funding because we moved, there was a deputy general counsel in this position, in this area that was given to us two bienniums ago. We moved that position from this area to the Compliance Audit Performance Division where the rest of them are. There was some funding that was transferred over. This package 806 didn't happen here, so I apologize for that. I didn't catch that. That happened in the trial division. But 840 is, they added \$543,000 to this budget based on the caseload increase for mandated caseload. That was about all that happened here. Next slide Mara. Administrative Services Division. Administrative Services Division is HR, IT, Finance, Facilities and Procurement. In this area, we asked for some accountants and some managers and none of them were provided. But what did happen in this area was that Packages 81 and 82 are things that incorporated emergency board actions.

So, when an emergency board happens, which is generally after the short session, so for June, September and November, there'll be emergency board actions and they have to be incorporated into the budget bill because they happen after continuing service level is created. So those actions were incorporated. We did get five positions in this area. Accounts payable asked for three positions and they got two. The PAE, preauthorized expenditures area asked for two people and they got one. We asked for three case management assignment coordinators and got two of them. Currently those positions are all limited duration positions that will expire in October except for the positions that we were granted. We also got in House Bill 5006, which was the end of session bill, our financial case management system was bond funded. So we got \$13.9 million of bond funding, which is other funds. We were given about \$2.6 million of general fund to handle debt service and some training in there.

Chair Jennifer Nash: So we weren't given additional positions. Positions that were granted in the E-board were made to be permanent positions, right?

Ralph Amador: That's correct, ma'am. In the E-boards, we had a couple IT positions and we created our procurement office in September E-board and we had to add some

program analyst boards to backfill those at that time, and this just actually chewed them up.

Chair Jennifer Nash: Okay, thank you.

Ralph Amador: Next slide, Mara. Special Programs, Contract and Distributions. This program here is where we have the majority of our discovery payments and now we also have our payments for civil commitments. Disability Rights Oregon's contract is in here and we also have now \$3.4 million for the law school programs to provide training and everything else from there. That's what was included in this budget here.

Chair Jennifer Nash: And this is the first time that the law school clinics have received funding, first time ever that the law school clinics are receiving funding passed through the agency. There were law school clinics that were funded the last session thanks to the efforts of Commissioner Buckley and the higher education committee, but now those have been shifted over to us and there are law school funding in all three law schools as a result of this, which is really good news. And they'll be doing direct representation.

Ralph Amador: Yes. Next slide, and I believe that this is the end of my presentation. If there's any questions, I will take them. If not, I will say thank you very much for your time and move forward.

Chair Jennifer Nash: That was very, very helpful information. Thank you. Do any commissioners have any questions?

Peter Buckley: I just want to comment, Madam Chair, thank you for being on top of this. Your grasp of the details is very helpful.

Chair Jennifer Nash: You're welcome. Commissioner Harris, You're muted.

Robert Harris: Got it. Sorry about that. So follow up question, Ralph, on the state offices. Does that total funding include investigators? I think they have investigators, don't they? That funding includes investigators.

Ralph Amador: Commissioner Harris, you are correct, sir.

Robert Harris: All right. How many investigators are there total?

Ralph Amador: I believe there's two investigators per officer.

Robert Harris: Okay. Thank you.

Chair Jennifer Nash: So it is the big takeaway, and you can correct me, Mr. Amador, of course. The big takeaway is on paper and what many people will hear is that we had a large investment from the legislature. In reality, I mean, that is true, but in reality, all of that investment was eaten up by the mandated caseload. So really we took reductions. We lost some significant personnel positions. We did not, you know, I think what a big risk what this commission has identified as a significant risk and others have recognized also that it's a risk is that the reduction in the FIP will no longer have the increased rates. We're going to lose private bar. I call them our part-time public defenders. We're going to lose private bar lawyers who won't want to take these cases. They were already taking them at about, you know, half or sometimes more than half of their hourly rate. Now we're saying, "Hey, can you take these cases at even less than that?" Same thing we've from investigators, that investigators, and we've heard this for a while, investigators are not going to be able to continue to take these cases at the rates that we're paying

. We understand. That's the reality. I really appreciate all the public comment that we've received. There is a perception, I think, and just for reading the public comment, that we have the money and that the commission is using not to fund investigators at \$75 an hour. That is not the reality. The reality is we want to fund them at \$75 an hour. We think that's the appropriate rate and we weren't given the budget for it. At every opportunity, I make the pitch that the way that these things happen, I mean, first of all, we're in a budgetary reduction situation across the board. The budget forecast for the state, I mean we're not the only people dealing with this. We fared well compared to a lot of other agencies. Look at ODOT. But the reality is that if you want your legislators who make these decisions to know that these things are important and how they're important, you have to reach out and talk to them.

You have people from the agency, you have commissioners who are talking to legislators, but you're a small business owner and you're people who provide really important services as non-profit public defender state lawyers. Everyone has two legislators in their district and we need to be talking to them and not during the session. You need to be talking to them before the session and way before the session. As Mr. Amador pointed out, we're going to start doing planning for the next biennium in a couple of months. So the sooner you start having these discussions and the discussions about the impact of the reductions, the better because that's what makes a difference. And we're all living under tight budget so we're going to have to adjust to that as Mr. Knab knows well from his own experience with that. Commissioner Lininger.

Tom Lininger: Hi, thank you very much, Chair Nash and also Mr. Amador for your excellent report. I have a very particular question. Policy Option Package 108 set forth a

lot of ideas for how to improve the pipeline of new public defenders coming out of law schools. Some of those suggestions, or at least one kind of turned up in another place, you know, continued funding of the clinics. But one request there was to get more money for supervised practice folio examinees. That seems like a really promising way to enhance our capacity, especially with newer attorneys. If I understand your report correctly, there was no funding appropriated directly for Policy Option Proposal 108, but we had already approved in June 2004 or 2024, if I recall, the authorization of payment for supervised practice portfolio examiners as if they were basically practicing attorneys, which I think is what the Oregon State Bar requires. They have to be paid in a way that's comparable to recent law school graduates. So my question is, what's the status now? It seems like what we saw under, you know, POP 108 was an expansion of that program, but it also appears that we were already capable of investing our budget, I guess, in the adult trial division for SPPE. I just wonder if you could explain what the current status is in terms of our ability to fund SPPE. I'm really hoping we have some space there because I think it's a promising program. Thank you.

Chair Jennifer Nash: Yeah, that's a really good question. I think this would be a really good... I don't know if anyone here can like answer that to a really, really fine point from the agency, but my understanding is that, I mean, we're still funding those positions because providers are hiring them. So we're funding them indirectly there. We're funding them through MAC. So a provider will say, "I have a lawyer, I want to bring this lawyer on, this lawyer," and now we've passed and it will be in the new contracts that first year lawyers are going to have a reduced requirement for caseloads. So they'll be taking that reduced caseload and then we fund them as if they were a lawyer who's been practicing for a year or two.

So they get funded in that way indirectly. I mean, ultimately, what we would love to be able to do is have a specific program that directly funds, I think the key really would be the supervision piece that funds supervision so that more SPPE lawyers can be brought in. That was not in. That was what was not approved. I think that's something you're absolutely right. That is a fantastic way to bring new lawyers in, law students want to do this work, get them into this work. If they have a job, they're not going to leave that job if they're supported and they like their work. We need to continue as a commission to put forth ideas of how to do that. One of my thoughts for future commission meetings was to have a panel of SPPE pretty soon. I mean, we can do that in the next couple of months. SPPE lawyers and supervisors, similar to what we've heard before, but more robustly, to talk about what they're doing and what they think would be helpful so that we could then develop that into a Policy Option Package. Commissioner Knab.

Phillipe Knab: Yes, just from our experience, from my experience in Washington state, I think that those types of requests go really well when you can kind of show the cost savings of programs like that. We fund a very nominal amount for student interns, but we get case producing capacity out of those. We were able to quantify that and present that to the legislature. That was something that I think was very effective in getting funding for those specific programs as being able to show how many cases are produced per funded position. I think a lot of times those are, in law student circumstances, those are significantly more than the investment that you're putting in on those. I would just suggest that wherever that program is being looked at, that there's kind of the financial component front and center.

Chair Jennifer Nash: Yeah, I think that's really important, especially for the clinics, because the SPPE lawyers are a little different because they have to be compensated. They're graduates and so they have to be compensated at the same rate as someone who's already passed the bar. But yeah, I mean, for the law school clinics to be able to expand those or to be able to quantify how many cases they're taking and how much we're saving, I think that's very, very important, and very helpful. Does anyone else have any other questions or comments? All right, thank you, Mr. Amador. I know it took a little longer than was on the agenda, but also I think that we'll cut into some of Ms. Taylor's presentation. It was very, very important information for us and for other people as well. So we'll move on next to the billing policy issues or potential action item, Ms. Schabert and Mr. Amador.

Amy Schabert: Good morning, Chair Nash, Vice-Chair Mandiberg and members of the Commission. For the record, I'm Amy Schabert, the compliance member. Mara, next slide, please. Before the commission today is the final component necessary to replace the 2019 payment policy. As you know, the pre-authorized expense, routine expense and schedule of guideline amounts policies went into effect January 1st, 2024, and were brought before the commission quarterly in 2024. We have not updated those yet. I suspect you will be seeing those at some point, at least the pre-authorized expense and routine expense policy. Mara, next slide, please. The purpose of this policy is to establish criteria and time frames for which payment of billings will be processed. The policy is broken up into two sections. Section one is the standards for reimbursement and section two is the invoice requirements. The agency recommends that the convention approve the billing and invoice policy effective August 1st, 2025, and I'm happy to answer any questions that you have.

Chair Jennifer Nash: Do any commissioners have questions about the request or about the proposed policies? All right, I have a question. We received a public comment, which was about the time of invoice submission. I went back and looked at the proposed policy and realized that I read it differently than the commenter read it. So I

thought it was worth clarifying. That is, there is a requirement or a statement in section 1.4 about invoice frequency and deadlines. Attorneys are encouraged to submit invoices every 30 days. Hourly billings for attorneys should be submitted once the cumulative total reaches \$500 or every 90 days. My question is, does that mean they cannot submit an invoice if it's less than \$500 or are you saying that, "Hey, if it's \$500 and it's been 30 days, we want you to submit your invoice." So which one is it? Because I realized I read it differently than the reviewer read it.

Amy Schabert: That was a difficult part to put in writing, okay. The agency's preference is that we're not getting bills for \$100 or \$200. Now obviously, if it's at the end of the case, and it's the final billing, that's a different story. Our preference is that it's \$500. The minimum is \$500. If that \$500 doesn't occur in 30 days or 60 days, we certainly want you to submit it within 90 days.

Chair Jennifer Nash: I could see the possibility, especially like in a juvenile case if you were pointed hourly. I mean maybe there's just a review hearing like once every six months or once every three months and you meet with your client, you review some materials, you go to a 20-minute hearing, your invoice probably isn't going to be \$500, but you might not have another invoice for another several months.

Amy Schabert: Right.

Chair Jennifer Nash: In those circumstances, are you saying go ahead and submit it?

Amy Schabert: Yeah.

Chair Jennifer Nash: Okay. All right. That's helpful. Does anyone else have any other questions about that? All right. So this is really, and you can correct me of course, this is really kind of just clean up language from, all right, we've identified these holes. We're just trying to make sure that we are clear about these things that we had that were clear on the original policies.

Amy Schabert: That is correct.

Chair Jennifer Nash: Okay. With that, I would ask for a motion to approve the billing and invoice submission policy numbered 404.600.03.006.

Tom Lininger: So moved.

Chair Jennifer Nash: And is there a second?

Susan Mandiberg: Second.

Chair Jennifer Nash: Okay. So Commissioner Lininger makes the motion. Commissioner Vice Chair Mandiberg seconds the motion. We need a roll call vote.

Mara Hoaglin: Good timing. I just got booted and got back on. I'm sorry about that. Commissioner Nash.

Chair Jennifer Nash: Yes.

Mara Hoaglin: Commissioner Mandiberg.

Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Buckley.

Peter Buckley: Yes.

Mara Hoaglin: Commissioner Knab.

Phillipe Knab: Yes.

Mara Hoaglin: Got it. Commissioner Harris.

Robert Harris: Yes.

Mara Hoaglin: Commissioner Lininger.

Tom Lininger: Yes.

Mara Hoaglin: Thank you.

Chair Jennifer Nash: Thank you. With that, we're back on track for time. Moving on next to the schedule of guideline amounts, update and propose action item.

Amy Schabert: Perfect. Mara, do you have the slides still available? Oh, perfect. Thank you. Okay. The schedule of guideline amounts has some updates, including some housekeeping items, such as removing the language regarding the temporary hourly increase, and it removes that full schedule, updating the rates for attorneys and investigators. I missed last time, correcting the transcription to match the update in January. So that is also now corrected. The agency recommends that the commission approve the schedule of guideline amounts effective August 1st. I'm happy to answer questions unless of course their budget related, which is why Mr. Amador is still here.

- Chair Jennifer Nash: So does anyone have any questions specifically related to the proposed hourly rate amounts that we are voting on today? Commissioner Harris.
- Robert Harris: Thank you. I have a couple of questions, I guess, maybe a comment or two. First of all, question. Are these numbers listed here, particularly the hourly rates for investigators and lawyers, I guess I'm looking at mainly here, but others as well. Are these the numbers that were used to pass the legislative budget?
- Amy Schabert: Mr. Amador.
- Ralph Amador: These are the numbers that we proposed to go forward in order to make the money. They gave us a budget and these are the numbers we landed on.
- Robert Harris: Did you use these numbers? The question is, did you use these numbers to construct the budget? Are these the numbers that the legislature assumed when they passed the funding bill? Or did you come up with or did the agency come up with these numbers later to match the budget?
- Ralph Amador: Chair Nash, Commissioner Harris, when we constructed the court-mandated expense budget, we added, we took our base budget, we added, we did some calculations at a mandated caseload and everything else in there and came up with a number that was formulary driven based on the forecasted amounts that we're going to go. It's a 15% increase in forecasted amounts. That gave us a number. From that number, we tried to figure out the best rates that we could get to balance the budgets at that time. If you're asking, did we say, "Hey, legislature, we want these rates to make that money match here?" No. We fought for higher rates. We try to give bigger numbers, but it's a formulary driven issue at the point. We have certain things we have to do to create the budget. Anything else is a Policy Option Package. We were given 6.8% increase in inflation. That's what we can do for the rates. That's what it came up with at that point. These are the rates that allow us to stay within our mandated budget at this point. If we did other calculations, the higher rates that the commission wanted, and there was double the budget on that perspective as well. So again, if you're asking, did we say, "Hey, we want these rates. Give us the money for that." No, we follow the prescribed methodology to get to a budget number and then we had to make that budget number match the rates that came into this.
- Robert Harris: Okay. I mean, the purpose of my question is if these were numbers that were given the legislation, the legislature passed a budget based upon this, I as a commissioner to follow the law, I would feel obligated to agree with these numbers exactly because that would be my legal obligation and it's just the way we should do business, right? But if it's a number that the agency came up with after the legislature passed its budget, then that I don't feel totally bound by that. I'm certainly persuaded by what the agency is telling me, obviously, what

they can do with their budget. I guess one question I would like to know is if the legi... I'm not saying that I would vote for this, by the way, but if the investigator fees were to go up to 75 from whatever, 59 and 64, how much would that cost, what would the extra budget cost be?

Chair Jennifer Nash: I asked Mr. Amador for that exact number yesterday in anticipation of someone, perhaps you, Commissioner Harris, asking that question and Mr. Amador has an answer for you.

Ralph Amador: It's a 8-million dollar difference. \$8 million to get them to \$75 an hour. It's a \$2 million increase to get them to a 6.8% increase. So that's \$2 million. It'll be another \$6 million and some change to get them to the next higher level, which we do not have in the budget at this point.

Chair Jennifer Nash: And we actually have to strip out some money from the it somehow, which is going to come in another discussion related to travel time. So yeah.

Robert Harris: Yeah. Okay, I got it. I just curious what that number was because I'm thinking that if nothing else, if we can't do it this time, perhaps we should construct a POP specifically for this and prioritize that particular POP. We'll see how it goes over the next few months, I guess. But I guess that was a comment on that. Oh, so I was looking at this under the THIP, you have soft caps for hourly THIP programs, but it doesn't look like there's a soft cap for the hourlies. Is there a reason for that? Or why do we not have a soft cap on the hourlies now?

Amy Schabert: It's not currently in the Um, but I believe that that is something that we're looking at doing going forward in the hourly agreements, Commissioner Harris.

Robert Harris: Okay, all right. Because I do believe the feds have that in their early program as well. I don't know how often the agency found itself pushed on that soft cap, but something to look at. Also, I just wanted to make a couple of comments on this. As I was going through this payment system, payment proposal. I noticed looking at the sorts of payments going to services that are most similar to investigator services, like criminologist, you know, which is BPSD certified perhaps or AA certificate, you know, goes anywhere from 55 up to 165 an hour, by the way. So just comparing the two. The other thing I noticed on these guideline amounts is like you have arson expert from 160 to 515 dollars an hour, which is fine by the way. If you look at people doing similar educational responsibilities as lawyers, almost every one of our experts is higher than our lawyers' rates, and there's a bigger range. There's various ranges, which I'll beat a dead horse a little bit on this, but I think we need more than two rates for lawyers. I think they need to be higher.

The high end needs to be higher than the low end is now, perhaps 140 is misdemeanor qualified. Fine, perhaps. But I think on the higher ends, if you really want to retain, you can't be competing for the most experienced lawyers in paying them 50 or 40 percent of what their hourly rate is. We're going to continue down the spiral of unrepresented people and I think that's a problem. I think the agency needs to recognize since the state has decided to largely rely on the private market for its legal services which includes non-profit law firms consortia that it needs to recognize the actual market that's out there. When we fail to do that because we wishing it away doesn't make it go away. It's clear that the state is willing to pay for its public employees to the tune of \$400,000 per lawyer per year. Yet it wants to pay \$250,000 or 260,000 a year to the private market.

Now, perhaps you can pay less than state employee costs for various reasons. I don't know that 60% of what you're paying for a state employee is sustainable. I think we need to be somewhat realistic about this. I think the fact that you construct this payment grid for these experts with different levels, different hourly rates based upon their qualifications and their experience probably, I'm assuming, and the need and the market, whether it's anyone available out there to do this particular work, for instance, should inform us of how we should be constructing payments to lawyers and investigators as well. That's my comment. Thank you.

Chair Jennifer Nash: I really appreciate it. I will say, I mean, the commission's heard me talk about this, members of the public heard me talked about that my law partner took a murder case under, you know, we stopped. We were part of the Benton kind of consortium stopped in 2017. He continued. He was on an aggravated murder case for a number of years, on another aggravated murder case after that. Then took a murder case under the temporary hourly increase program because a private practice only takes one case at a time, that case is now closed. When the program was discontinued, he said, "I'm not working for that. I mean, that's ridiculous. I can't sustain my practice with the amount of time that I need." You know, we have hourly or monthly billing quotas that we try to keep. His billing, when he looked at his billing versus my billing, he was always, always working more hours and bringing in less money than I was because even though, even with my commission work, because he devoted a lot of time to his THIP case at half the rate. He's not an anomaly.

I think that we're going to see that across the board. I was a pretty vocal proponent and at every opportunity of talking to the governor's office of the legislature, legislators individually, LFO. I just sounded the drumbeat about how I thought this is going to be a big mistake, reducing the hourly rates for investigators and lawyers. The comment I got back at one point was that it was too bad we couldn't quantify that ahead of time. I said, "Well, you can't quantify

a negative." But we will have the ability to do that now. We'll be able to draw a straight line between the number of cases that we... That's why I asked my question about if we've seen a drop off in the last two weeks. I know it's early, but I think we're going to have a really difficult time getting private bar lawyers to take these cases and where that's going to come into a fact is the unrepresented list and Betschart releases. Because if we don't have providers that can take those cases, then private bar lawyers are going to be reluctant to take them, especially the higher-level cases at the rate that we're proposing, \$155 an hour. \$200 was already too low. We heard information earlier that we paid DOJ \$300 an hour for legal work. We're paying lawyers doing criminal defense representation for people who are charged with capital murder at \$155 an hour and serious sex crimes.

I think this is absolutely a big issue. The investigator piece is an hourly rate is a big issue. We're going to have to keep a very close eye on it. What has happened in past years, when the unrepresented crisis was at its height is we were able to go back to the E-board and get authorization for the Temporary Hourly Increased Program. Ultimately, that program costs us a lot of money, but we got what we paid for. We could have probably gotten more lawyers to take more cases if the hourly rate was higher. We would have got more people off the unrepresented list potentially. I think it's something that is worth continuing to talk about at every opportunity. I wish it wasn't the way it was. I have real grave concerns about the hourly rate.

The other thing I will say is that when I was on the commission, Commissioner Buckley remembers this because he was there with me, a former Commissioner Winemiller asked for a legal opinion about what our legal responsibility was as commissioners or legal obligation was regarding the budget and whether or not we could, you know, thumb our nose at the legislature and say, "Too bad. So sad. Yep, you only gave us money for \$155 an hour but we're going to pay \$300 an hour." We got a legal opinion back that said that we could be held personally liable, that we are not allowed under the law to do that, and that it was a violation of the constitution and a violation of our obligations and that we could be on the hook. So that went by the wayside quickly. So we can't, without legislative approval, pay an hourly rate that we don't have the money for. So that's where we are. Does anyone have any questions or comments?
Commissioner Lininger.

Tom Lininger:

I just wanted to express my interest in preparing early. You mentioned within the next couple months, my interest in preparing early to make a case to increase rates for both attorneys and investigators. One thing that struck me about this legislative session is that the legislature was quite amenable to considering market pressures save for judges. Judges got huge salary increases. There's focus on disparity between judges current rates and the rates received

by other lawyers. It seems that consistent with that thinking, especially given the urgency of securing representation for not just Betchart cases, but across the board, we can apply similar logic. It was just, it was odd to see that huge step forward for judges without anything comparable for public defenders when public defenders and investigators are so important for the process to function. Maybe it's just the greater price tag to do right by public defenders and investigators. But I would like to optimize our odds of making a good case for that. And to put that front and center, I know Commissioner Harris said, you know, if we do a POP for investigators, we need to prioritize it. I just hope that we'll prioritize rates. You're right. I mean, it's very hard to prove a negative. Unfortunately, I think we will prove it. I think you take away THIP and there will be evidence of a decline in interest. Maybe now's the time to start making the case for fair pay. But I really think that that's an unfortunate incongruity in that some categories of people in the judicial system made a big step forward and public defenders did not when they certainly deserve to.

Chair Jennifer Nash: Yeah. To that point, Deputy Director Perfecto, I think it would be very helpful if the case assignment coordinators started tracking when they ask private bar lawyers to take cases if lawyers are refusing to take cases with specificity because of the rates. We need to know that information, and we need to track that data so that we're able to provide that information to the legislature.

Emese Perfecto: So I do have a response about if we've had any issues, but it's only been two weeks. We have not, I mean, there's been, I think, a couple of attorneys that have rumbled a little bit, but not anything significant at this point. They're taking cases. But we will be tracking that. We'll work with data to see what we can do to continue to monitor that because we know that there will be an impact.

Chair Jennifer Nash: Thank you. Commissioner Mandiberg.

Susan Mandiberg: Two comments. First of all, I think that we need to make a case to the legislature, not just about the value of public defense work, but about the quality of public defense work, because I'm afraid, and I don't have any specific interactions to point to, but I'm afraid that there may be some legislators who buy the narrative that's being pushed by some in the system, especially some district attorneys, that public defenders are lazy, that they don't do high quality work and so forth. If you buy that narrative, it makes it harder to increase hourly rates and so forth. I think that we need to make people understand who it is who is providing these services and that they are in fact, hardworking, excellent lawyers. So that's the first thing. But the second thing is, if we're going to be lobbying for increases in hourly rates, which I 100 % think we have to do, we also have to be lobbying for increase in rates given to non-profit public defenders, because if we don't do that, we are going to increase the number of lawyers who go to work for the non-profits who leave to start taking hourly

cases because they can make more money doing that. It would be an unintended bad consequence if we had those hourly rates increased and increased the departure of non-profit public defenders from that work. So I think we have to treat that more as a system sort of issue than just focusing on the hourly rates. I'm saying that not only for litigators, but also for investigators, because the non-profits have in-house, and if the private investigators can make more money for their families by leaving the public defender non-profits, they're going to do that as well.

Chair Jennifer Nash: That's a really good point and really good reminder that you're... That's right. Thank you. Commissioner Knab.

Phillipe Knab: I just wanted to take an opportunity to echo what Commissioner Mandiberg said. I mean, I come from an institutional provider background. I worked at the Bronx Defenders and I think that there is excellent work being done and that can be done efficiently in those contexts. I think one of the key issues I hear is when it becomes significantly more lucrative to leave a non-profit to go into private practice, then those non-profits suffer. I think that the two need to be kind of dealt with hand-in-hand and kind of create a comprehensive plan for how those two interplay in a cohesive manner rather than a competitive manner.

Chair Jennifer Nash: Thank you. All right. With that, are there any other questions or comments before we move forward with the rates? All right. I will... Oh, I have a question. Sorry. I do have a question about investigator rates. I am wondering why or what the plan is, if any, why the mitigation rate for investigators is not being increased?

Amy Schabert: Thank you, Commissioner Nash, that would again be a Ralph Amador question.

Chair Jennifer Nash: I can't. Go ahead, Mr. Amador.

Ralph Amador: I did not factor it in. I mean, it's just that plain and simple. They're up around 70% and there hasn't been any talk about mitigators. There's always been investigators, investigators, investigators. Then if we need to increase to mitigators as well, then 6.8% and of course, and if that's what the commission wants to do, then we will do that as well.

Chair Jennifer Nash: I'm sorry I didn't bring that up until now. I meant to ask you that earlier. I think, I mean, whenever we've increased investigator rates, we've increased all investigator rates. I think it's appropriate. I don't know how other people feel, but I think it's appropriate to include the mitigation also, what the 6.8% increase across the board.

Ralph Amador: Yes, ma'am. Well, we will do. If the commission votes to accept this with that change, we can do that.

Chair Jennifer Nash: All right. Thank you. Is there a motion to adopt the rates as set forth in the schedule of guideline amounts, effective 8/1 with the change that mitigators will also receive a 6.8% increase.

Robert Harris: Can I ask a question? What's the cost impact on increasing mitigators to 75 bucks an hour? Do we know that?

Ralph Amador: Yeah. It would be about, the rate would be 75 bucks an hour.

Robert Harris: Yeah. But what's the total cost on the budget...?.

[Crosstalk 01:41:44]

Robert Harris: I can't do that in... I may be able to get that to you by the end of the commission meeting, but not in the next minute and a half. Sorry.

Chair Jennifer Nash: Do you want to come back to this? Although, yeah, do we want to come back to it?

Robert Harris: I'd like to know the budget impact on this. I don't know if it's very much or not, but you know how it is with the budget, as tight as it is.

Chair Jennifer Nash: Yeah, fair question. All right, let's do this. Let's table the action item to after the discussion of attorney qualification standards and we'll come back to it with Mr. Amador's answer to the question and then we can make a decision. So with that, Mr. Arntt, please talk to us about the updated attorney qualification standards.

Steve Arntt: Good morning, Chair Nash, Vice Chair Mandiberg and members of the commission. We had a bit of a history with this. I just kind of want to go back through our history with getting the attorney qualifications standards up to everybody. So this first came to the commission in February. I think it was tabled in March and April, and then we came with some updated standards in June. We had a pretty productive working group in June, and we're back again here in July at our meeting. During the work group, we had some concerns that we identified. One of them was whether attorneys currently under the 2019 standards would continue to be qualified in the 2025 standards. If you take a look in the package and you look at the Aqs on page 5, we inserted a preamble that talks about how those attorneys remain certified. They've always been qualified. They will remain qualified.

I believe it was the vice who had a concern that there could be the possibility of an attorney maybe being charged with ineffective assistance of counsel if for some reason they didn't meet the new standards. We put language into safeguard that as well. Just as a by way of explanation, when these were drafted, these were drafted not just by my staff but also by a provider community input. They have not been sent out for notice and comment to a broader, you know, the entire provider community, but they have been in the commission's packet for a number of months. I noticed that Vice Chair Mandiberg has her hand up.

Chair Jennifer Nash: Yeah, do you have a question? You're muted.

Susan Mandiberg: I'm sorry, Steve, I may just have not read carefully.

Steve Arntt: No worries.

Susan Mandiberg: But where is the language addressing the concerns about ineffective assistance of counsel?

Steve Arntt: I believe that's on page five of the AQs. Unfortunately, I don't know what page it is of the...

Susan Mandiberg: Page five of the AQ.

Chair Jennifer Nash: It's actually on page one.

Steve Arntt: It's like page one. I thought it was page five.

Chair Jennifer Nash: Maybe depending on, because my page five is the actual standards, but it's in bold. The updating no way diminishes the quality of attorney certified under previous standards, nor should these standards be used to decertify attorneys or cause them to lose appointment to cases. That's...

[Crosstalk 01:45:24]

Susan Mandiberg: I'll just look for it more carefully. I must have just skimmed by it. Thank you.

Chair Jennifer Nash: It's in the very first paragraph on the very first page.

Susan Mandiberg: Okay, great. Thank you.

Steve Arntt: During the working group, we also talked about rollout and one of the things we realized that once these approved, we're probably going to need about six months to roll these out. There's some things I want to make sure that we do. I

want to make sure that we update our forms and our processes for approving attorneys at the new qualification levels. Also, I want to do some training with my staff to ensure that these standards are applied evenly. We've had some discussions in the past about attorneys, usually those folks in maybe more rural counties where they're not able to get as many trials.

This set of standards was kind of trial heavy in what we were expecting attorneys to do. If you, I believe it's on page 28 item 11, you can see that we've added some new language to address that we've included recognition that in some jurisdictions it may be difficult for an attorney to perhaps get the number of trials that we would expect one to have to be certified at a higher level. Perhaps a more robust motions practice or whatever the attorney feels qualifies them is something that they could explain in a free form narrative that gets us out of putting people into a box and they have to meet very rigid standards that they might technically not meet, but they are nonetheless highly qualified to take those kinds of cases. When we met as a work group, I was asked the question, if we need to approve these in July. I kind of stand by that we don't need to approve them in July.

I think the commission should consider a vote on these. I know Mr. Thompson in his comments early on had said that he would like to see the provider community have a time to comment on these. I would remind everyone that these have been on the commission materials going back a number of months back to February. I reached out to him in the background. He's asking for 45 to 60 days for provider comment. I would think that's a, you know, given the amount of time we've spent waiting on these, that that would be a bit much. We're hoping to have these rolled out before the new contracts. Next month, I plan on bringing the criminal standards to the commission for approval. After that, we've got other standards that we have loaded up and placeholders to move them in on a monthly basis. I worry that if we wait too long on these, we're going to have a lot of things coming to the commission and it might be more than can be managed at any one time.

Chair Jennifer Nash: So a couple questions or a couple comments. What do you mean the criminal standards? You mean performance standards?

Steve Arntt: Criminal performance standards, yes ma'am.

Chair Jennifer Nash: The usual cadence is that the commission gets them in month one for briefing and you tell us all about them and then they come back the subsequent month for approval. So we don't, especially for something that big, we don't approve at the same time that we get it.

Steve Arntt: Yes, ma'am. Understood, understood.

Chair Jennifer Nash: That's just a kind of a procedural thing. I really appreciate how much work your team has put into this and I appreciate how you made it clear with the highlighting and the bold what was being changed in this version versus the other versions. I think that's very helpful. Also, I would say about timing, you're right. We've seen these now, I think this may be the fourth time and we've not received any public comment that's substantive about these. So I am reluctant to really hold this open for a longer period of time, especially because I know that the timeline for contracts, extension for the new contracts to be put in place is very tight and very short so that we can make sure that those get where they need to get. These qualification standards are linked to the new contract. I would like to, unless other commissioners, and I see Commissioner Lininger has his hand raised, other commissioners have concerns, I'd like to move to approve these today. But Commissioner Lininger.

Tom Lininger: So thank you, Chair Nash and thank you, Mr. Arntt. I do feel that overall this is in a pretty good state for approval. But I did look closely at the section that starts on page 32 of the specific pagination for the AQs. So it's page 67 in our packet. This is either a question or a suggestion for a change. I do apologize that I haven't made this suggestion earlier. But I'm glad that we have space for allowing people to practice under supervision. So the second sentence here refers to the scope of whom may practice under supervision. It says an attorney, law student appearing under the student appearance rule, or supervised practice portfolio examinee. So those are the three categories of providers or what do you call it, individuals who can practice under supervision. But thereafter, the term we use in this section for spelling out the requirements of supervision, it refers to attorney, right. It only refers to one subset of these three categories of individuals that are subject to the section. I would recommend that every time in this section use the term attorney, use the term supervisee.

Unless the intent was to have the ongoing supervision, like the one year check-in solely for an attorney and not for a law student, not an SPPE candidate. But I'm guessing that isn't the intent. I think we just used attorney throughout the AQs. I do believe here it'd be better to use supervisee. It might also help us escape a misplaced modifier that appears later in the same sentence. Let's see. Where it says, no attorney may accept appointment under supervision at criminal attorney levels four or five, which could create confusion about the status of supervisor. So if you said no supervisee may accept appointment at criminal attorney levels four or five. Unless, Mr. Arntt, the intent is in fact to have these regulations apply solely to the subset that is attorneys rather than law students and SPPE candidates. I'm guessing that's not the case, but was that the intent?

Steve Arntt: No, you are correct. We can make that change. That's an easy edit.

Tom Lininger: So other than that, I'm ready to approve today. I think these are well written.

Chair Jennifer Nash: Thank you. Commissioner Harris.

Robert Harris: What section were you talking about, Tom? I was trying to find the page as you were referencing.

Tom Lininger: Yeah, it's page 32 of the AQ pagination. I think it's page 67 in our packet.

Robert Harris: All right. I guess a question I had, and I always have an eye on this stuff for like new lawyers coming on board, right. Let's not make it, I mean, setting up barriers. Some of these can be unnecessary barriers. So if you have an attorney practicing under supervision, an attorney law student appearing under the students appearance rules supervised practice portfolio examinee under supervision They can be approved and qualified. Now let me ask you, if someone got out of law school, and they're a really good attorney and they want to live in Baker City because that's where they grew up, but they pass the bar, right? They're not going through the supervised practice portfolio and they haven't yet met the other qualifications because they're brand-new out of law school and they're not a law student, how would they get qualified? Because are they under supervision if they have a mentor because there's some exceptions for this, but under what... How can I hire that if I'm a lawyer in Baker City and I want to hire that person, how would they be qualified under which criteria as a adult criminal level one?

Steve Arntt: So they would go to the AQs and they would meet the qualifications under attorney qualification one standards.

Robert Harris: Right. So going to that, let me look at that qualification. Shoot why is that over there? So that would be criminal attorney one, right?

Steve Arntt: Yes, sir.

Robert Harris: So they've done all their research. They've read all the stuff. They're familiar with all that stuff. You jumped down to number three, satisfies at least one of the following Okay, represented clients and they're not a supervised... They don't fall under that because that's not what they've done and they present... And because they don't meet that because they haven't done that stuff, has served as co-counsel in at least two court... They haven't done co-counsel on jury trials yet. Haven't co-counseled five criminal cases yet, because they just got started and they haven't clerked. So they're not qualified but someone who's in the supervised portfolio plan is. Is that correct? So they don't get paid.

They have to work for free till they get qualified. What's the what's the remedy in that or how does that person, or do they just not... Are they just not allowed to practice law as a public defender until they work apparently without being paid or what's the path there or is there no path for that person?

Chair Jennifer Nash: I think it'd be 38ii. So presents a letter from their immediate supervisor certifying the certifying the person's qualifications to represent clients in misdemeanor cases. So they'd get hired and the employer would say, "I certify this person is qualified."

Robert Harris: No, I don't think so because they have to meet sub A, sub B, and sub C, one of those as well. Because under small i, it's an and, not an or. Right?

Chair Jennifer Nash: Oh, yeah, that's right. Yeah, I'm sorry, you're right. Yeah, that is a big loophole. Thanks for catching that. That is not our intent.

Robert Harris: So the one area where they could qualify, and this might be good, is under sub-e, they complete an OPDC approved training program. That's the only exception I have found for that lawyer. These are not going to be rare cases. I've hired people like this. So do we have an OPDC approved training program yet?

Steve Arntt: We do not. We have to get the standards before we can have a training program to know what we're training.

Robert Harris: The other issue is so I think that's a major problem, okay, because we're trying to invite people in who are qualified and want to do this job and are good lawyers. I think that that's a problem. The other is under the delinquency some of the juvenile, you know, you have to do the same thing qualified as a criminal one which again presents the problem. And then you also have to do extra stuff even if you're qualified you're going to have to go do all this other stuff for qualification for juvenile work, which is not a bad idea but again, the only way to get that experience is to work and not have the state pay for that service. Now I think that there's a couple ways to do it. One, get the OPDC training program up and I believe you can put it. I think you can stand it up at this point, if efforts put into that. I think you can go ahead and do that. You pretty much have 99% of this stuff out there. I think OCDLA would be more than happy to help do that and they have their resources. The other way is there's some mentioning here about an approved mentorship. Do we have any approved mentorship programs in this state? I think the answer is no.

Steve Arntt: Again, you can't have a mentor program until you know what you're mentoring. What are our standards? What do we expect that mentoring program or that training program to produce?

Robert Harris: I see a major flaw with the way this is being processed.

Chair Jennifer Nash: Let me just say graduated. Well, actually, Commissioner Lininger.

Tom Lininger: Just in response to Commissioner Harris' excellent points, is it not possible for these attorneys, that's what you call someone who's passed the bar, right? I mean, unless I mis-understood the use of the term attorney in this document, those attorneys who haven't yet met all the requirements you just went through can still be supervised under 32, on page 32, right? I mean, so they could start and receive compensation and be supervised. And then I guess at some point, check all the boxes necessary to work without supervision, but they can get paid in that interim as super leads, right?

Steve Arntt: So yes, they can still be supervised. The concern that the drafting committee had was an attorney graduates from law school, takes the bar, has never set foot in the courtroom, has no experience, has no mentor, has no specialized training, has no supervision, and now they're taking cases and they're out there on their own with inadequate preparation.

Robert Harris: That's an excellent point but you don't have a approved mentorship program. You don't have approved training. So requiring them as that one path towards practice without providing the tool to complete that path is, to me, a problem. Also, while I take your point, someone under a supervised portfolio also has maybe never stepped foot in court yet they are approved.

Tom Lininger: But this is in-house supervision, right, at the firm that is contemplated in the language on page 32.

Chair Jennifer Nash: Yeah. I think that's right.

Robert Harris: I don't... Can you tell me where 32 is because I...

Tom Lininger: It's 67 of your packet, 32 of the AQs.

Robert Harris: All right.

Chair Jennifer Nash: It says that an attorney may, in its discretion... OPDC may in its discretion, allow an attorney who does not otherwise meet the attorney qualification standards to practice under supervision. And then it describes what that looks like.

Robert Harris: And a attorney [Inaudible 02:01:14]. Okay, so do we have an approved supervision plan criteria?

Chair Jennifer Nash: Yeah. That's what's laid out in the rest of it.

- Robert Harris: So the way we're reading this is if that attorney in Baker City wanted to hire someone right out of law school that passed the bar, that would be fine. They would just have to send a letter saying, "This is my new attorney and here's my supervision plan and they're going to be working under me," and they would go ahead and be able to get qualified for pay for the work. Is that accurate?
- Steve Arntt: Yes. That's correct.
- Susan Mandiberg: Are you sure that's correct? Because I've... Excuse me, I don't have my hand up, but on page 67, it says, OPDC may in its discretion, allow an attorney, blah, blah, blah, under provision. And then under supervision, it seems to say either the student's appearance, the student appearance rule, or SPPE. It doesn't include the possibility of an attorney being supervised by a senior person in the office, to use Rob's example of Baker City, let's say it's a small firm, there may be one or two senior lawyers. But this person who's graduated and has passed the bar is not doing SPPE and is no longer a student. So isn't appearing under the student appearance rule?
- Chair Jennifer Nash: Well, except says an attorney, law student appearing under this supervision rule or. So that means either or, right. Either a lawyer or a law student or a supervised practice portfolio. So I think if you say attorney, that covers it if they've graduated from law school and passed the bar, they're a lawyer.
- Susan Mandiberg: So then that lawyer in Baker City would have to have an approved supervision plan. In other words, in order to do what Rob is suggesting, that lawyer would have to have this kind of a plan, get it approved by the commission and be able to show to someone, I guess you, that they're actually doing everything in this plan. Is that correct?
- Steve Arntt: They submit their plan and then the plan is available for review.
- Susan Mandiberg: And do they have to show that they're actually following the plan that you've approved?
- Steve Arntt: I believe there is a reporting requirement.
- Susan Mandiberg: Yeah. So, Rob, I guess the answer is that somebody could do it, but they'd have to go through this submitting the plan and reporting.
- Robert Harris: Yeah. I think that's not a bad idea. My problem is, if you look at this page, number one, under supervision is in quotations, which usually means it's some sort of a term of art, specifically in under supervision under Oregon State Bar rules with the portfolio and the student law, you know, student appearance rule

is pretty specific. So, you know, hey, take those quotations out then and make it clear that an attorney or law student, people can, you know. I would change the language if that's the intent, to make it more clear that it applies to anyone who is qualified to appear in court may also work under supervision. Number two, this is totally at the discretion of the agency and they have some basic standards in here, But I'd like to know more about, you know, maybe there's a supervised template or something that they could say, if you meet these standards, you will be qualified. I don't know... Look, it's not that I don't trust the agency to make good decisions here, but I just think it's a good idea to have some standards as to what people can expect. I'd hate to hire someone and have this is my plan and them to say, "Well, it's not good enough." "Why isn't good enough?" "Well, we just think it should be better." So, you know, I think that could be worked on.

Steve Arntt: The 25-27 contracts, including the hourly contracts, have very specific language about what has to be in an approved supervision plan. I could take that language and insert it here.

Robert Harris: Yeah. I mean, I haven't thought totally about what the final product would look like. I am just raising this concern that we need to make this a welcoming environment and a learning and a mentorship in a supervision environment rather than to have providers unsure as to what this means. And I was unsure as to what this meant when I read this.

Chair Jennifer Nash: Commissioner Knab.

Phillipe Knab: I think Commissioner Harris raises some excellent points. I think when I keep going back to when I look at the supervision component and then the attorney one qualifications though is that after five criminal cases, that person would become certified as an independent. So whatever, you know, whether it's a co-counsel agreement or whether it's something else, it's a pretty low bar for that initial certification after that. I do think there's an interest in OPD ensuring that there is some prior experience before we pay them. Someone can go and put up a shingle and do five criminal cases as a private attorney and then they're qualified. But before the state pays them for their work, that basic very kind of, I think, fairly minimal requirement seems to make sense. Obviously having an OPDC approved training program, I think solves all of those issues. But I think that looking at the supervision component and then looking at the qualifications together really makes the barriers pretty limited to getting in there. But I think those are really good points and I think there is obviously ways to make it more consistent.

Chair Jennifer Nash: Commissioner Mandiberg.

- Susan Mandiberg: I have to excuse myself by saying I am somewhat sleep deprived in the last couple of days, but going back to page 37. if a person can be supervised by a private lawyer under the provision that's on page 67, that's not reflected here in minimum qualifications for Trudy 1, section 3, satisfies at least one of the following, represented clients in criminal cases, either as a certified law student, or an SPPE applicant, or a student who participated in a law school criminal court. It does not include someone who represented clients in criminal cases while being supervised by a private lawyer, which is, I stood corrected, one of the possibilities on page 67. So there's a disconnect between page 67 and page 37 that needs to be corrected. Because I think what led to Rob's confusion or issue.
- Steve Arntt: I think you're right.
- Susan Mandiberg: Yeah.
- Chair Jennifer Nash: Okay. Let me see if I can summarize. We want to, under the supervision section, change some of that language to make it clear that it's a supervisee rather than an attorney, but we also want to make sure we leave that attorney language so that we know that a new graduate is also included in a potential supervisee. And then under the criminal attorney one qualification, we want to make sure that we add that it includes people who represented clients in criminal cases as a supervisee who is an attorney. Those are the two changes that we would like made. Did I miss anything?
- Robert Harris: I think I might suggest his language for that section that we're talking about, just add a new whatever, F or whatever saying, or has otherwise been qualified under supervised program under section whatever.
- Chair Jennifer Nash: Okay. Any other comments or questions or suggestions?
- Steve Arntt: I did have one question. I had mentioned that we could take the language out of the contract relating to supervision plans and insert it into this section. I don't know if that would be helpful to...
- Chair Jennifer Nash: We haven't seen that. So it might be, but we don't know what it is.
- Steve Arntt: Okay. Okay. Understood. I have been dealing with contracts nights and weekends. They're like my cell phone plans, so they're very familiar to me.
- Chair Jennifer Nash: Yeah.
- Robert Harris: Well, the reality is if it's in the contract, they'd be obligated to do it anyway.

Steve Arntt: Okay.

Chair Jennifer Nash: Yeah. Okay. All right. Thank you. And with that, we'll ask for a motion to approve the qualification standards with the two amendments that we discussed.

Tom Lininger: So moved.

Chair Jennifer Nash: And is there a second.

Phillipe Knab: Second.

Chair Jennifer Nash: Okay, we have Commissioner Lininger made the motion, Commissioner Knab, who's second. We need a vote.

Mara Hoaglin: Thank you. Commissioner Nash?

Chair Jennifer Nash: Yes.

Mara Hoaglin: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Mara Hoaglin: We lost Commissioner Buckley. So Commissioner Knab?

Phillipe Knab: Yes.

Mara Hoaglin: Commissioner Harris?

Robert Harris: Yes.

Mara Hoaglin: And Commissioner Lininger?

Tom Lininger: Yes.

Chair Jennifer Nash: Okay, good. I was like, Oh, no, we lost our quorum, but we didn't. Commissioner Buckley will be returning shortly. He had to step out for a work-related meeting. All right. Thank you. With that, are we ready? I don't see Mr... Oh, yes, Mr. Amador, are you back? All right. Can you answer the question for us about the budgetary impact of increasing mitigator rate to \$75 an hour?

Ralph Amador: Chair Nash, Ralph Amador for the commission for the record. The amount would be about \$120,000.

Chair Jennifer Nash: Do we have that in the budget?

Ralph Amador: We do. We do have that. If you'd like the calculations, I can give you that.

Chair Jennifer Nash: Does anyone want the actual calculations?

Chair Jennifer Nash: No. All right. I think we're good. Thank you for that. We appreciate it.

Ralph Amador: Yes, ma'am.

Chair Jennifer Nash: All right. With that then, I'll ask for a motion on approval of the scheduled of guideline amounts with the additional change that we're going to increase mitigator rates to \$75 an hour. It looks like maybe Commissioner Mandiberg made the motion, but she's muted.

Susan Mandiberg: You said litigator rates. I think you meant...

Chair Jennifer Nash: Mitigator.

Susan Mandiberg: Mitigator rates. Oh, good.

Chair Jennifer Nash: Yeah.

Susan Mandiberg: Thank you. Mr. Amador said increasing investigators to \$75.

Chair Jennifer Nash: Mitigator.

Susan Mandiberg: Mitigators, got it. Okay. So moved.

Chair Jennifer Nash: Is there a second?

Robert Harris: Second.

Chair Jennifer Nash: All right. We need a vote.

Mara Hoaglin: Thank you. Commissioner Nash?

Chair Jennifer Nash: Yes.

Mara Hoaglin: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Knab?

Phillipe Knab: Yes.

Chair Jennifer Nash: Commissioner Harris?

Robert Harris: Yes.

Mara Hoaglin: Thank you. Commissioner Lininger?

Tom Lininger: Yes.

Chair Jennifer Nash: All right. Thank you. All right. We're a little early for our break, but we'll go ahead and take it. After our break, we're going to have, I don't see Judge Donahue, but he will be at 11:30, and I think we'll just take a break until 11:30 and pick up with him. And then we'll have some discussion about what we already talked about, expanding the question-and-answer sessions, some legislative updates, director's update, and FCMS. And then we'll adjourn for the day. So let's take a break. 15 minutes, we'll be back at 11:30. Thank you, everyone.

[Break 02:14:57 - 02:29:09]

Matthew Donohue: Good morning, Ms. Nash. How are you doing?

Chair Jennifer Nash: Good morning, Judge. I'm very good. How are you?

Matthew Donohue: Not too bad.

Chair Jennifer Nash: Good. We're back from a break. I see a few other commissioners haven't logged on yet, but we'll just go ahead and get started. I know your time is valuable. I really appreciate you being here today and was excited to see you on our agenda. I'm going to ask you after you're done with your presentation, some unscripted questions that are just about local practice in Benton County that I think would be really helpful for the commission to hear. So with that, this, I'll introduce Judge Donohue. He is the presiding judge of Benton County. I've known Judge Donohue for a number of years. There are three judges in Benton County. We need a fourth. I don't know where we are in online, but I'm sure he would agree we need a fourth judge. One of the main difficulties with having a fourth judge in Benton County is we literally have no space for a fourth judge. There is a new courthouse that is, I think, under construction. It's hard to tell. I'm kidding. Which is now is under construction, and perhaps after there is a facility that will house a fourth judge, we can have a fourth judge. But Judge Donohue is the, as I said, the presiding judge. He's also the family treatment court judge. He was the... Are you still the drug treatment court judge?

Matthew Donohue: Judge Demeris is now going to be the drug treatment court judge. Her and I are kind of in a transition period, but she's now the official ADTC judge for Benton County.

Chair Jennifer Nash: But prior to that, Judge Donohue was the drug treatment court judge for a number of years. Those are our two specialty courts that we have. We have a pretty small bar and a pretty stable, relatively stable criminal defense bar. Our county is 100% consortia. We don't have a public defender's office, so there are no state trial division lawyers in Benton County. With that, I'll turn it over to Judge Donohue.

Matthew Donohue: Yeah, and again, I was talking Crystal Reeves about meeting today and just talking with you folks. Thanks for doing this. I appreciate your time. I think the format as I understood was just kind of a little bit of an overview of how things were going here in Benton County regarding our unrepresented defendants. We did have a significant problem in 2023. I think at one point, we were up to 248 maybe unrepresented litigants around the middle of a year, that year. However, we did, I think, acquire around that time, an additional attorney. We also started working with the defense consortia, the defense consortium here, to start collecting and getting information from them about their MAC counts and MAC caps so we could track attorney availability and figure out the best way to appoint based on whether folks were in custody or not.

We did that for a time during the time when we had the shortage, and that seemed to work pretty well. But once we got the additional attorney in our consortium, things trended downward pretty quickly. I think by the end of 2023, I want to say our numbers, our unrepresented numbers had gone down significantly and since then, have remained pretty low. I think right now, I don't think we have any more. Maybe 10 folks and I believe all of them are out of custody who are unrepresented. I think some of those maybe individuals who have attorney conflicts with all the attorneys in the consortium. So right now we really don't have the level of unrepresented litigants that other counties have. So we are actually doing well. But again, I think it's primarily a function of we have a right sized consortium.

Getting that additional attorney, I think was a really big factor in getting the numbers down and maintaining them because right now, I think we have maybe one or two attorneys who are not either at or exceeding their MAC cap, but I would say of all of our attorneys, one, two, three, four of them. I think we have... I want to say we have nine. We have eight. Eight attorneys and of those, half of them are at or above, slightly above their map cap we have one who's below we have those who are below. I think one of them is in the 90s and when we have two others who are a little bit lower. I think that's because is the cases

that they're taking at this point. So right now, we're right kind of at the top of the average is about 95% of the MAC.

If we didn't have that eighth attorney, we would probably still be in the situation we were in back in 2023 having a significant number of folks who were unrepresented. One of the things we were able to do again though, was we didn't have the significant issues, even when we had the shortage, we didn't have a significant issue with unrepresented litigants in custody. I think that was a function of two things, one of which was we weren't holding people in custody if we couldn't appoint an attorney. But even for individuals where there was a request to hold them in custody, we were working pretty well at that point with our consortium as far as getting the MAC counts. So we were able to keep a kind of a reserve of consortium attorneys who had MAC availability and felony certification available for our in custody defendants and that then we did have for a while a system where we would be, if we would keep a track of that MAC count and when they were getting kind of close to the MAC cap, we would then start sending our unrepresented, we would start appointing OPDC to our unrepresented litigants who were out of custody. And then we would set them over to the first of the next month because that's when the monthly Mac caps renewed and would appoint then.

That seemed to work to kind of keep in custody attorney availability sufficient. But again, that was also pushing our unrepresented out of custody litigants down the docket, which extended the period of time to getting them arraigned. So that's, again, right now, we are right-sized as far as our defense consortium, but we are pretty close to our MAC caps. So if we were to lose one, then that would, again, I think put us back in the same situation a lot of other towns have. That's kind of the overview unless someone has any more specific questions about the consortium or the procedures where we're currently using.

Chair Jennifer Nash: Can you talk a little bit about the makeup of the consortium in terms of the qualification level for attorneys? Do you have older attorneys, younger attorneys, any concern about retirement?

Matthew Donohue: Yeah, we have a kind of a mix. We have, I think, eight attorneys. I think we have nine, actually. I'm sorry, we have nine attorneys. Yes, I forgot about one of our attorneys. Yes, we have nine attorneys. For our county, I think it's 89 or 90,000. So that's nine defense attorneys for our county. That seems pretty right size. Right Now, of the nine, we have one, two, three, four, who are older attorneys, have been doing providing legal defense for quite a while. There, I think all, they're the four of our five felony qualified attorneys. So what they're going to do over the next four or five years is anyone's guess. There have been some rumors that at least one or more of them might be stepping away but again, that is half of our consortium is at the point where they're probably within a

relatively short window before retiring or you know, we're moving back from full MAC. The remaining, we do have our relatively younger attorneys. So we have five of those. I don't believe, I think one of them may be close to being... One of them is felony qualified. I think two of them are close. I think there were actually, we have two of our younger attorneys who I think are felony qualified now. I think within the next year or two, the remaining three will be as well, but that's just second-hand information. So again, at this point, we do have a pretty good mix, but we will probably be losing an attorney or two over the next five years. And if we do, that is going to put us right back, I think, into, if we stick with the MAC cap program we have now, that will probably move us back into having an unrepresented defendant issue.

Chair Jennifer Nash: Thank you for that. I have talked with other judges and other counties about Benton County's procedure and process for settlement conferences and the benefit that I think that brings to case management, especially in certain counties in certain situations, and I'm sure here as well. There is a difficulty with providing discovery in a timely manner or really getting one side or the other to kind of open their file and fully prepare for their cases to be able to have meaningful settlement discussions or trial discussions. My general experience, especially in civil cases, but also in criminal cases, that when a case is set for a settlement conference, it really helps kind of get everyone to pay attention to their case and have an honest and meaningful discussion. I was hoping that you could maybe describe that process to the commission and talk a little bit about your thoughts from the bench about how beneficial or that might be for your trial docket management.

Matthew Donohue: Sure. That is one of the things we did do as well when we, back in 2023 is we started implementing a judicial settlement conference program for criminal matters. We are in a hybrid docket and three judges. So every nine weeks, the judges will spend six weeks managing cases that are assigned to them, and then they'll spend three weeks on what's called the duty docket, which is short term unassigned case being sentences, landlord/tenant, in custody, out of custody, arraignments, restraining orders. So it's a bit of a mix, but the judges do manage their own cases. So once they have cases at issue where someone's arraigned, it's assigned to a judge, the judge handles it.

So the judge would have an understanding as to where the parties are as far as discovery, whether there's any outstanding discovery issues or things like that. What we'll generally do, and what I do, and I think what the other attorneys are doing is, once we do have the discovery process relatively complete, which is something we track through statuses, then we'll talk with the parties about judicial settlement conference for criminal matters. We can do those in person. We have also the capacity to do them remotely. The docketing is a little bit, we do have, because we do have only three judges, if there is, generally, we'll

assume for the purposes of scheduling, that it's going to be scheduled on another judge's docket. Although we will, if they do want to waive and have the judge who's presiding over their case participate in the judicial settlement conference, they can do that, but we need some written waivers.

We've also started, so we have, and usually those get sent on the judges, and they get sent on another judge's docket. Those usually will go on the judge's docket for their individual docket but we also do schedule those judicial settlement conferences. We've blocked out some time on our duty docket, so we do have some duty docket capacity as well that we've built in. That has helped. I think we have had, with the judicial settlement conference program, I think we we've resolved quite a few of our criminal matters through the judicial settlement process. Even when we don't resolve the matters directly through the judicial settlement conference and we have them scheduled for 90 minutes, a lot of the time what that judicial settlement conference will do is kind of get everyone in the room, give everyone kind of an understanding as to where the case is, where the defendant is, have a discussion with the judge about, you know, risks and probabilities of success, and generally kind of frame the issues that the parties are having some difficulty with, and then kind of send them off to continue their discussions. Quite a few cases have resolved after those judicial settlement conferences as well. It seems like it has some utility, and as far as moving the cases a little bit quicker and as opposed to moving to trial.

Chair Jennifer Nash: Benton County doesn't have... Do you... I mean I know the answers, I'm just asking so other people know, you don't have mandatory discovery deadlines per se, correct?

Matthew Donohue: Not for our criminal matters, no. The reason we generally don't is because we have a kind of a soft rule about when discovery should be complete, but generally my experience is there's generally, that there are a couple of things that delay discovery being complete, one of which is just the volume of body worn camera footage that needs to get processed. That generally can create a delay sometimes. Crime lab test testing, that generally plays a significant delay because the Oregon State Police, the testing lab is backlogged and they generally are prioritizing based on timelines to trial. So if the case isn't assigned a trial, it kind of takes a back seat. So that delays discovery. Another discovery delay that I've noticed popping up is that the defense investigations that they're doing, there have been some delays as far as just getting funding for their investigator.

There have been a couple of cases I can recall over the last maybe six months where they were waiting to get the OPDC investigation funding money. That delayed things a bit. And generally, they're not going to go into a settlement conference without having that information. So some cases are relatively quick

with discovery. Those, we can move quickly into settlement. But there are some that will hang out there for quite a while due to either one of those three issues or just something else as far as what's going on. We do have a relatively collegial relationship between the defense consortium and the DA's office. So they are always engaging in informal discussions in the cases for the most part. We really don't have the dynamic that some counties have where the defense bar and the district attorney's office are kind of in a very adversarial relationship and really don't spend much time discussing the cases informally. We do have, I think that is a benefit, and I think that does help us quite a bit as far as supporting the judicial settlement conference.

Chair Jennifer Nash: All right. Thank you. Do commissioners have questions for Judge Donohue? Commissioner Buckley?

Peter Buckley: Yes, Judge. Thank you so much. Are the settlement conferences mandatory for every criminal case?

Matthew Donohue: You came in very, very faint.

Peter Buckley: I'm sorry. Are the settlement conferences mandatory?

Matthew Donohue: They're not mandatory. They're something that's offered in every case. It's not a mandatory. If we do have a mandatory, we do have a mandatory mediation program for our domestic relations cases for child custody and parenting time issues. But it's not a mandatory program, but it is something that we do just a general proposition offer in all the criminal matters. The reason that for me personally, I don't want to make it mandatory in a criminal matter is if we structure it like that, then we got two things. How do we deal with discovery issues if we're going to be scheduling them? Also, there are just some cases that just don't lend themselves in criminal matters to settlement. That happens, but because if there's a motion to suppress and it's the, you know, what evidence is going to be admitted at trial, well, until that issue gets resolved, there's probably not going to be any room for settlement. That probably won't get resolved until relatively close to trial. So in a case like that, by actually requiring mandating settlement, you're probably extending the life of the case because most of the time, those suppression motions are further down the road after discoveries.

Peter Buckley: Thank you.

Chair Jennifer Nash: Any other questions, comments? I have one other question and that is, we've been doing an informal poll, you're our second judge that I'm going to ask the question. Do you think it would be helpful if the legislature changed the law to

allow judges at their discretion to reduce misdemeanors to violations without prosecution approval?

Matthew Donohue: I guess the answer is yes and no. Yes to the extent that it would allow judges to manage the docket more effectively by reducing the number of misdemeanors that are going to trial. I think on just that level, I think it would reduce caseloads, which would reduce the number of attorneys who needed to be on cases, and shorten the amount of time that a lot of misdemeanors went through trial. The concern I have is the impact it's going to have on the criminal justice system in general regarding the district attorney's office and the dynamic it's going to create within a district attorney's office if the court is in the driver's seat on misdemeanor cases. I can see two things happening, neither of which is good. One of which is seeing more charged felonies just to hang onto the case. But above and beyond that also, seeing a dynamic setup where for misdemeanor cases, there being a subsidiary argument between the defense, court and the DA's office as to whether the court should dismiss it.

I can see that undermining the collegiality, to some extent, between the defense, the bar and the DA's office, particularly from the DA's office side. I could see that as them seeing that is kind of impairing their ability to bring cases, particularly misdemeanors to trial if they think it's necessary. I would assume that there would be some carve-outs, I'm guessing that probably would involve DUIs or things like that. But if we're looking at BNC misdemeanors, I mean would the utility of it outweigh the negatives? Possibly, yeah. I think it would. But again, I think we also want to make sure we didn't run into those two traps that, you know, the upping the charges if they to hang on to the case or having it create a dynamic where it erodes the collegiality between the willingness of the defense and the DA's office to kind of work with each other in good faith.

Chair Jennifer Nash: I appreciate that. Thank you. Any other questions, comments? Okay. Well, thank you very much for your time. We really appreciate it. It's always a pleasure. Thank you.

Matthew Donohue: Thanks for having me. Thanks, everyone. Have yourselves a good afternoon.

Chair Jennifer Nash: Thank you. You too.

Matthew Donohue: Thanks.

Chair Jennifer Nash: All right. So the next item on our agenda is just a discussion regarding... I have my own little slide. How exciting. Discussion about the question and answer sessions that we've had in the last couple of meetings. We were going to discuss this at the work group meeting last month, but we didn't have enough people to

have a full discussion. I wanted to have more commissioners present to just talk about whether we think it's useful. We had one in April, we had one in June. Whether we like the format, whether we want to continue to do something like that? Do we want to also open up the ability to have a, you know, ask a commissioner questions or something. You have people submit questions in between meetings and we can answer them and talk about them during meetings, just some general thoughts. I wanted to open it up for a discussion about that. So what are commissioners' thoughts about? Let's start with, do we think it's been useful to have a format where we have a more open dialogue with presenters? Don't everyone speak at once. I can't call on you all at the same time.

Peter Buckley: I'll jump in. I'll jump in.

Chair Jennifer Nash: Mr. Buckley.

Peter Buckley: I think it's been very useful. It's been very educational for me too, because I am not of the legal system. So even just to let this previous conversation we've just had there, the possible downsides of more judicial discretion, I need to hear these points and need to get more information about how the system works. It was also when the judge in Jackson County when the commission was down and the public defenders talked about not having access to their clients. I mean, to me, that was like, okay, I didn't know that was happening. That seems to be something you could address, you could look at and how to increase access and make it easier. So I'm finding these to be helpful.

Chair Jennifer Nash: Thank you.

Peter Buckley: I might even want to, you know, even suggest have a DA and maybe a DA who's not very supportive of [Inaudible 02:54:40] or whatever, but to get their perspective and have a chance to have that dialogue, because we have to solve this as a system. At some point, it has to get solved as a system.

Chair Jennifer Nash: Yeah, that's a very good point. Yeah, that's a very good idea actually. Other thoughts? What about what we want to know? I mean should we just have our running list. I mean, you're right. I found Commissioner Buckley very helpful, especially the Jackson County. You know, it's like, oh, these are... I mean these are things that we can't resolve, but maybe just by talking about them, it were flags for other parts of the system. "Hey, you know, you're having a lawyer sit in your jail for hours at a time waiting to see clients and that doesn't help anyone." I mean, if nothing else, maybe poke the judge or any people who could help with those things to kind of help. Commissioner Harris. You're muted.

Robert Harris: Sorry, I got to work session on how to unmute on time. I'm on city council now and there's four out of six council members are new in Hillsborough. Staff has instituted what they call Hillsborough 101s. We don't try and cover everything at once but like at a work session, we'll cover parks and rec, budgeting or financial, whatever it happens. I found those very helpful because we don't get over-inundated with information and it brings us along. Now we've got a relatively new commission. We're going to have new commissioners coming on. I don't think we need to do a totally comprehensive thing every six months. But we could, for instance, have a short work session, even before council or after council on an issue where we could have a little more information like contracting or whatever happens to be relevant to us and make it a little bit of a one-on-one and we could have a discussion.

I think that would be helpful and keep us up to speed as people come in on and off this commission. That could also, like you said, maybe we should have a list of questions. Well, this would actually sort of be a trigger for, this is the sorts of things we do and what questions do you have and here's some background information? So I have found that very helpful as a new city councilor to have that help from staff and to break it down into manageable pieces and to have actually, you know, an hour work session, both. While we do it both an hour before and an hour after council, which makes it a long evening, but maybe you do a half hour work session or something or an hour of work session before or after this commission meeting.

Chair Jennifer Nash: That's an interesting idea. I was trying to imagine, we're talking about orientation because you may remember, when we all came on it, we all came on as like those of us have been here for a little while as a new commission when we were newly formed January 1st 2024 and we did a whole group orientation. But then we've had... I came on before that and my orientation was, you know, more one-on-one. I think there were maybe, although there was a big group or we may recall then too. I think Commissioner Buckley may have been there but they did a couple of different sessions with the commissioners orientation, but since then we've had people rotate on and off. I was trying to imagine what it felt like when I first joined the commission and how much I felt like I didn't understand the discussions because they were out of context for me.

I was thinking about Commissioner Knab coming in and what it must be like and also Commissioner Lipscomb came in in the middle, and what it must be like just not really understanding some of the things that we're talking about or being able to put them in the appropriate context and how do you do that? We're going to have three more new commissioners come on. I think your suggestion, Commissioner Harris, is a really good idea. Just things like what we did today, like, okay, let's talk about what THIP is, let's talk about our budget and how that

happened, you know what the process is. You know, contracting is coming up and that's seems ripe for that kind of discussion. We're going to have to make some decisions around that and because we're going to be getting feedback I'm sure from the public when that happens.

We're going to need to, we'll hear later from the deputy director. We're in the executive branch now and there are very strict procurement rules and very strict rules around contracting. The way this has usually been done when things happen is we have lots of people from the public who contact individual commissioners with questions and want to have discussions. We're not going to be able to do any of that because the state contracting rules are going to have to be very careful and very unified and the information that's being presented so that we don't run afoul of state contract procurement rules. So knowing all of that and being able to have that information as a group, I think you're right, would be very helpful. We could start... I have a wince on my face because the court, Judge Donohue, who left, changed the docketing.

I used to not have to appear on Wednesday mornings, but now I have status appearances Wednesday mornings at 8:30 and I'm always panicked. It started in June. So this is only... Well, I only had to do it in June. I scheduled around July, but, you know, I have in August and September, I know during commissioner meetings at 8:30 status appearances. So I'm a little nervous about that. But we can schedule some time to do those orientations or run the work sessions. Maybe we can expand the work group time or start a little bit earlier. So what are people's thoughts about that, about Commissioner Harris's idea about that? Do we think that would be helpful? We probably want to group it around something we're already doing, I'm guessing, because if we extend something a half an hour, it's not going to be as big of a deal as if we try to find another time. All right, well I'll have...

Phillipe Knab: I'll jump in and say absolutely, I think that would be helpful. I think that it's a big complicated system and being the last one in at this point, there's a lot of context that I would be grateful to get.

Chair Jennifer Nash: Okay. I'll have Mara send out some inquiries about when that might work. Also, this is probably more appropriate for a kind of a longer workgroup session or even the governance committee. I know Vice Chair Mandiberg had to step off the meeting. But I think we need to really look at to amending the bylaws about public comment. I appreciate public comment, but I don't find it as useful, and it's probably not super useful for providers too in the format that it is. I still feel like we get comments about things we're deciding on that day. That's just kind of the nature of things. There's no ability to like say, "Hey, you sent this in. I don't understand what you're talking about. Can you give me more information?" I would really like to talk about and think about a more

interactive and meaningful way to receive feedback from people than just read me your two minute statement before meeting. Commissioner Lininger.

Tom Lininger:

First, I wanted to start by complimenting Chair Nash for doing a wonderful job as chair. I just feel that in my what year and a half on the commission, you've made it so welcoming and you just doing a great job leading the commission. Now I'm hearing discussion of the possibility that we might have some further opportunities/obligations in connection with our commission service. I really want to pour my heart into this. I know everyone's busy. I'm amazed that Commissioner Harris is also a city councilor. I'm sure he's a great city councilor, but you've just got some super busy people here. I don't really know your schedules. I think we have a few retirees, but I myself have a full-time job. It's just really hard for me to set aside time for extra meetings unless there's some regularity in the scheduling of the extra meetings. I wanted to thank you for your suggestion that if we add anything, we sort of tack it on to current meetings.

Or one other point I wanted to make is that this work session which I attend every single time I can seems to float a bit and it's sort of declared when it's going to meet on a particular day, sometimes early in the month and then sometimes it'll sort of jump to another day. I'm not blaming anybody because I think we have a lot of staff but that's just not really working for me. What I need is a regular, I guess right now I have sort of two regular commitments a month, one in the evening, one in the day, but I just need to protect those times from other obligations. So as we discuss the possibility of more interaction, I mean, it seems great in the abstract, but as somebody who's working full time and has some other obligations, I just need to have regular times that I can set aside in my schedule. I'm not saying others don't, I can only speak for myself.

Chair Jennifer Nash:

No, you're absolutely right. That's completely fair. We moved the work session last time because it was a holiday weekend. So I didn't want to burden people with it on the holiday weekend. And then this time, I don't know how many people are going to attend. I'm trying to get people there. But I totally... You're absolutely right. The other thing that's going to happen very soon is Mara, I'm going to start working with Mara to see about changing the meeting schedule in 2026, if that would be helpful for people. If so, when. We've had this cadence now for a couple of years. I mean, everybody plans on it and that may be just fine. This may be the time we want to continue it and it may be perfectly fine. But if there's a time when once the new commission members joined that would be better for people that I want to explore that as well so that... Because I know everyone's busy and everyone has things and especially those of us that still are working full-time. It may be better to change the meeting cadence. So, just put a pin in that. Commissioner Buckley.

Peter Buckley: Rob had his hand up first.

Chair Jennifer Nash: Oh, I didn't see that. Sorry, Rob. Go ahead.

Robert Harris: That's okay. I think I accidentally put it down and put it back up again. I got behind Peter. But so, yeah, to be more clear than I was, I would like to see a work session integrated into the time frame of the current meetings like and tighten up some of these other presentations and we sort of do it anyway because like you said, we usually hear a presentation and we consider an action item the next time. Sometimes, we would just be doing the work session on the things we're not ready to consider yet but also we could use that work session at this meeting time and keep it 9:00 to 1:00 or whatever, tighten it all up. I think we would have better attendance at our work sessions as well if we did something like that.

Chair Jennifer Nash: Oh, interesting thought. Okay.

Peter Buckley: Yeah, I'd agree. I'd agree with that. I do think cadence is really important. I serve on the Early Learning Council as well. It's a slightly different schedule but the Learning Council will get informed of an issue like two months before we have to make a decision on it so that there's time for the council to actually be introduced to it, then at a meeting time be able to discuss it and get input on it, and then be able to make the decision on it. I know it's hard on the agency, but things like this, the travel costs issue, which I'm glad you were able to take off the agenda for today, I wouldn't be prepared to vote on that today because I have not had a chance to hear any input on it. If we can as much as possible, if the agency can try to look into the future and say, you know, we're going to need to decide on contracts, for instance, if it's changed the contracts or the definitions or whatever they might be, if they can give us that lead time to do the introduction, have the month to take information, discuss it, and then have a decision the following month, that would be helpful.

Chair Jennifer Nash: Yeah. I think that's right. I've been for things, not travel, but attorney qualifications, you know, things like that. I've been using that added work session as kind of that interim. So introduce it, then let's have a work session, that let's vote on it the next time. With the change, we had two big changes. Obviously one was executive director, but one also to trial support and support and development. We just need to sort of refresh that we can't introduce things and ask to be voted on them the same meeting that we introduced them. The hourly rates that were today were a little different because the budget was released and we wanted to make sure we got providers money as quickly as possible, so I didn't want to wait on that. But the more meaningful and substantive issues regarding changes to the policies I wanted to wait.

Because we're spending the money while we continue to consider them but I do think they're very significant issues and we need to not only understand the budgetary implications but also the unintended consequences of some of the decisions or intended consequences that we might be making. So I appreciate that. Any other thoughts or comments? Okay. I realize we haven't really made any decisions and I'm going to wait until Ken is back from his vacation and kind of have a discussion with him about some of these. I find his, you know, he has a lot of experience on the Criminal Justice Commission, of course, and now as our director. His input, I find, is really valuable about some of these issues. So I will bring them back for discussion. Your point is very well-taken even though you're not going to be there in August, Commissioner Lininger, about that moving meetings around. But I'll see how many people are going to be at the August worker because maybe we just need to cancel it instead of trying to reschedule it. Okay. Let's move on to the legislative update. I know we're a little early. Ms. Taylor, are you ready for that?

Lisa Taylor: Okay. Absolutely. Can you hear me fine?

Chair Jennifer Nash: Yes.

Lisa Taylor: Great. Okay, let me just share my screen. Okay, great. Well, the legislative session ended. So you'll see in your materials, I have a whole memo. I think it's about eight pages with details about what happened in the session. I hope you've had a chance to look that over or you can after the meeting today but here's just kind of a summarized overview. So, again, the 2025 session wrapped up at the end of June. There were almost 3,500 pieces of legislation introduced, which I believe is a record. It seems to keep growing year after year. 702 of those bills were actually passed. The focus really was on wildfire funding, housing and K-12, and then as you've probably seen in the news, a transportation package failed to pass in the final hours of session. And then I just have some headlines about OPDC throughout the session.

Obviously the main focus continued to be the unrepresented crisis. I know that was forefront for legislators in funding decisions and investments that they might make making the future. It was very clear from them that they need to see more progress on the unrepresented numbers before they're willing to make substantial investments into some of our programs. As you heard with the unrepresented numbers, we are kind of seeing those numbers decline, especially in the last five months or so. So the policy, as you know, 2614 was our bill that changed the statue. We talked about this a lot in previous commission meetings, so I won't go into details unless folks have questions. But this gave the governor a lot more authority over the agency to appoint the executive director and remove commissioners, and the director for cause.

There's more details in the bill. It also removed the sunset on consortia. So we're going to be able to continue to contract with consortia going forward. There was also a House Bill 2005, which was about civil commitments. This was a combination of a number of civil commitment and aid and assist bills. It expands and eases the civil commitment process. Basically the outcome of this bill is that more people will be able to be civilly committed especially because it removes the immediacy and expands kind of that definition of civil commitments. I'll go in, again, not a lawyer, but just for a quick rundown. Civil commitments are when someone is a danger to themselves or others, and they're saying that we need to commit you to the state hospital or another mental health facility to kind of stabilize you.

Aid and assist is when somebody is charged with a crime, but is not able to assist in their own defense and so they need to be stabilized to the point where they can provide that assistance. Chair Nash, please correct me if I'm wrong on those. But for this bill, we do anticipate a fiscal and we were given that fiscal of \$1.1 million. This bill is going to greatly increase the number of people who are potentially eligible for civil commitment, which requires an attorney to look over their potential deferments, and of course, it actually goes to trial to represent them. Our budget, this is our Primary Budget Bill 5031, which we went over in last commission meeting. And then what Mr. Amador went over at the beginning of today's meeting, combined with House Bill 5006, which is the end of session bill that had some funding for us along with that House Bill 2005 Civil Commitment Bill that we just talked about. That's the totality of our budget for the 25-27 biennium.

This is just a different way of looking at the numbers that you heard at the beginning of this commission meeting. I find that it's actually usually very helpful to see budget numbers in various ways. I know everybody's a different learner when it comes to budgets and they're always very complicated. So you can see here, the first chart shows the funds by the bills, so by the authority, and you can also see it broken up into general fund and other fund. And then the second chart compares the 23-25 legislatively approved budget with our 25-27 CSL. This change column at the end, that is the change from what would have been our current service level going into 25-27. So if the legislature had made no changes and we were just expected to continue services as they were in the 23-25 biennium accounting for inflation and general cost increases, that change is showing basically the additional investments that were made. As you'll see, that 95% increase in other funds that is almost entirely our SCMS funding which we got a significant amount for bonding which we didn't have last biennium.

Chair Jennifer Nash: Just to kind of jump in. So the percent change is 12.4, the mandated caseload adjustment was 15.82%. So the net is less.

Lisa Taylor: Yes. If you break this out, our mandated caseload was that 15%. But yes, I see what you're saying with that, yeah.

Chair Jennifer Nash: I just want to be clear so that people don't think, "Oh, we got a 12.4% increase."

Lisa Taylor: Yeah. We talked a lot about this in the last meeting, but yeah, those investments are largely driven by that mandated caseload increase, and then of course the THIP carryover. As you'll see here, this is kind of our summary of legislative investments. The memo goes into a lot more detail about this, but you can just kind of see the main areas, Mandated Caseload Adjustment, the THIP Carryforward, our Enhanced Provider pilot program, the Law School Clinics, the Expedited Resolution Attorney is that existing position that was moved from CAP over to the Trial Division. And then the additional staff that we discussed earlier, and then the FCMS, which was mainly bonding authority, though there is general fund for, I believe it's staffing and then the cost of issuance of those bonds. And then the reports that we have due, we talked a little bit about these at the last commission meeting, but this is just a summary of those reports.

We have our Capacity Report, which is again, tied to the \$22 million that is being unscheduled until we turn in this report. And then we have our Interim Status Report. Again, the memo that is provided goes into exactly what these reports require. But I just wanted to provide kind of a summary here. Our Law School Report and then ongoing reports from previous biennium or our Comprehensive Public Defense Report, and then our Legislative Report, which is just a regular report that's due biannually. You can see here our report timeline. So our first report will be due in December of 2025. That is the second iteration of our comprehensive public defense report. We provided the last one in December of 2024. Then we have our first Interim Status Report followed by KPM and the Capacity Report that are due to short session. And then our second Interim Status Report, our third Comprehensive Public Defense Report and a Legislative Report and then the law school report, which is due during the 2027 session. What I really wanted to show everyone here is our report process for getting these approved.

I think this factors in really nicely with the conversation you were just having about calendars and cadences of meetings and things. Because of how the legislative session works, and there's a lot of very specific deadlines for when these reports are due, we usually have to turn them into the legislative fiscal office about a month before they're actually going to be heard by the legislature. That means that the report is already a month old by the time it's heard by the legislature and then obviously, we have to do the report. Because of that cadence, it makes it hard for us to bring a report to you a month before you actually approve it and then you approve it and then we turn it in. By that time, our reports would be about three months if not more old.

And these reports are heavily relying on data. We want to keep them as fresh as possible. So this is kind of the framework that we're proposing for a generic report. Obviously each report will have specific deadlines where we would be able to do everything in around nine weeks. And then of course there would be the month or so while LFO reviews before the legislature hears it. In this framework, we draft the report and while the report is being finalized, we would bring that draft to either a subcommittee or a workgroup for review and input by the commission. Then the subcommittee and workgroup would be able to give their input and that input would be able to be incorporated by the agency as we finalize the report, update all the data so it's as recent as possible.

And then we would turn that into the commission packet for the commission to vote on it during their actual commission meeting and after that was approved, it would be turned into LFO. And with that timeline and updating the data really at that last minute before we turn in the final to the commission packet, that means data would be three to four weeks old by the time it was turned into LFO. Again, each report I have a spreadsheet that makes Gantt Charts for each report. So we'll be able to kind of follow those charts. I'm hoping to kind of work with you, Chair Nash and Mara and Director Sanchagrin, to really make sure that we have commission meetings in the same cadence as the legislature is going to need things due so that we can kind of keep reports as fresh as possible. With that, that's my summary of the session. Are there any questions?

Chair Jennifer Nash: Thank you very much. We really appreciate it. A lot of moving parts and you've distilled them very nicely for us. Thank you. All right. Moving on then to the director's update, Deputy Director Perfecto.

Emese Perfecto: Thank you. Mara, do you have the slide? Thank you. Chair Nash, members of the commission, I'm reporting on behalf of Director Sanchagrin. Can you go to the next slide, please? So here are some upcoming dates I can, I already heard that maybe the August subcommittee meeting may be changed. So I'm flagging that as well as possibly the work group. So we'll wait to hear, but the rules advisory committee meeting is Thursday, July 17th from 1:00 to 1:30 and it's virtual. Next slide. The contract extensions, I wanted to give you an update on where we are. OPDC sent out 160 contract extensions for Criminal Juvenile Parent Child Representation Program. So PCR and personal service providers. We are very pleased that we received 159 of those 160 signed.

Those contract extensions have been fully processed and executed. OPDC also sent out 29 case manager contract extensions. We have received all 29 signed and they have all been fully processed and executed. So that's very good news. Next slide, Mara. I want to talk about this, and I think Chair Nash mentioned it earlier that we have a new way of doing contracts and we have a procurement

team because we're now in the executive branch. So by 7/18, documents and exhibits will be made available for review period. The review period will last from 7/18 to 8/8 of 2025. Then on 7/21, program analysts will begin work on the ROC for the 25-27 contracts. We will have two listening sessions.

Chair Jennifer Nash: You should talk about what a ROC is.

Emese Perfecto: Okay. Is Amy Jackson online because Amy will know the ins and outs of the rock. I have not.

Chair Jennifer Nash: What does ROC stand for?

Emese Perfecto: I don't know. I'm sorry. I don't typically work with that. So Ralph, Amy, anybody?

Peter Buckley: Rules Advisory.

Emese Perfecto: Hmm, is it?

Robert Harris: It's like Roster of Contractors.

Emese Perfecto: Yeah. That's that. Yeah. The Rules Advisory Committee is the other one. Roster of contracts, and I'm not sure. I can get somebody to explain that but I'm sorry. I don't typically work with that.

Robert Harris: Maybe someone else on the staff can do that but basically it's a spreadsheet showing who the lawyers are, who the staff is, what their caseload is. Jennifer probably knows this as well. What their MAC is. It's just make sure that the consortia, the subcontractors contractors, law firms, and the non-profits all keep a current roster of lawyers doing the work and how much they're doing..

Chair Jennifer Nash: We're required to do that now. That was part of House Bill 2614, is we must maintain a list of all persons who are providing public defense services in Oregon.

Emese Perfecto: All right. Thank you. I am now taking this on so I'll have to take a deeper dive here very quickly. So the contracts have now been assigned to me, which just happened two weeks ago. So we will have two listening sessions and they'll be set for 7/29 and 8/5. We will post FAQs after the listening sessions and keep those running. Then, let's see. OPDC will review contractor comments and make any changes to the document as we move along after those sessions. Then this is a mandatory activity that's required. And on 8/15, the documents will be sent to DOJ for a mandatory legal sufficiency review that can take up to two weeks. There can be no further changes to the document at this point. Any time savings that we have, we will provide, wherever we can cut time, we're going to provide

that. So for final review and for the contracts and signatures. Then on 8/29, OPDC will review DOJ comments and incorporate them into the document. Then again, another mandatory procurement activity by 9/3, OPDC will send final legal sufficiency review. Again, anytime savings we can get there, we will put towards the end. Then 9/9 OPDC will compile the final documents and send out to contract administrators. By 9/12 contract documents will be fully sent out for signature. And then by 10/1 the contract begins. Next slide.

Chair Jennifer Nash: Are there questions or comments about the project timeline?

Phillipe Knab: I have a question is about the mandatory sufficiency review. Is it a template that you're using that's going to be reviewed and approved or do they have to review every single contract?

Emese Perfecto: Well, they review the contract itself. That contract will be the same, you know, when it goes out, but they're looking for legal sufficiency in that contract and every state agency in the State of Oregon has to do that when they put out a contract.

Phillipe Knab: But it's the template. It's not, you don't have to go back with each contractor.

Emese Perfecto: Oh no, no, no, sorry. Yeah.

Chair Jennifer Nash: I just have a comment, a couple. Well, I have a question and a comment. When you say documents and exhibits will be made available for a review period, how are they going to be made available?

Emese Perfecto: My understanding, we had a conversation, is that we will be posting it and then sending out what is it? The Mailchimp to all administrators to forward them to that site.

Chair Jennifer Nash: So posting means on the website?

Emese Perfecto: Yeah, I believe so.

Chair Jennifer Nash: Okay.

Emese Perfecto: I will confirm that that's what they want to do or they will be sending it. So to the contract administrators and the people, anybody associated with that, especially the commission.

Chair Jennifer Nash: Well, are there opportunities for people who do not have current contracts to request to have a contract?

Emese Perfecto: I believe so. Once we open for contracting, that anybody should be able to look at it as it is public property.

Chair Jennifer Nash: Which means we probably should post it on the website. Otherwise, if you're not on the mailing list, then you won't get it.

Emese Perfecto: Yeah. So we'll do both.

Chair Jennifer Nash: And then I guess just my two comments are that I think it would be very helpful to post these timelines in a very clear place on the commission's website. And then also that it's extremely important to be very, very transparent about each one of these steps and what's happening and that we adhere to the timelines that we've posted. We had a big problem with the contract extensions where we said, well, when these things are done, we'll be able to get these contract extensions out right away. And then through various different reasons, all of which were legitimate, but providers don't know that the contract extensions couldn't go out or didn't go out. There were a large number of concerns that I know I received, and probably other commissioners as well about, you know, "Hey, I don't have my contract extension, what's happening," etc. So I want us to, I want to avoid that and I want to build some good will back with contractors about the contracting process.

Emese Perfecto: So Chair Nash, as this has been assigned to me, normally I worry about operations, that's technically my job. But this is now, this work has now been assigned to me. Our plan is that once this goes out in October, November, we will start the work that we need to do for the next contracting cycle and be able to use the time that we have to make sure that all the steps are done and that we are in advance taking care of what we need to do instead of what has historically happened. That is something that both Director Sanchagrin and I have agreed on. And so we'll be working with the procurement team and other teams that need to develop this. So when it goes out in October, when it's fully executed in October, by September, we will begin meeting and starting the work that we need to do for next contract cycle.

Chair Jennifer Nash: Well, I appreciate that. But I'm also talking about between now and when we execute the contracts in September.

Emese Perfecto: Yes. Yeah.

Chair Jennifer Nash: Okay.

Emese Perfecto: Yes. This will be posted, I'm getting emails from Kim Freeman that it will be posted on the website and we will make sure to get everybody that needs to see it a copy.

Chair Jennifer Nash: Okay. Other questions or comments from commissioners? Okay. Thank you.

Emese Perfecto: Next page. So the KPMs. I know it's always a hot topic. The annual KPM, key performance metrics. Customer service survey was sent to all providers on Monday, June 16th. The survey is still open until July 18th. Once this is available online, you can just click on this link here to go to that survey if you have not completed it and would like to. We really want to just make sure that we communicate that we're thankful for those that have filled it out and those that intend to fill out for us because the agency gets a lot from your insight and participation in these types of surveys. So thank you. Any questions?

Chair Jennifer Nash: Just a little note that our key performance metrics that were developed, I don't even know how many years ago now, at least 10, are terribly inadequate for what we're trying to do. I mean, one of them is like, how many CLE credits, or whether or not you have 12 CLE credits and have a contract term. Another one is how many, for the juvenile, how many hours you spend with your client. Anyway, they're kind of willy-nilly. In the short session, we're going to... They're in the short session, right. That's when we do the KPMs. Anyway, we have to update them. So that's something that the agency is going to be working on in the commission, because we have to set those ultimately and they're legislatively requested.

So we have to do our work about what it is we want to measure, forward that to the legislature and then they get legislatively adopted. That's going to be happening pretty quickly so that we can have some meaningful, measurable data that measures what we're really trying to measure instead of these random things that don't help us that are outdated. We're supposed to update them regularly and as you know, since we haven't done it in 10 years, that hasn't helped. All right. Are there other comments, questions, concerns? Anything else, any questions for Deputy Director Perfecto? All right, with that, we don't have an actual... Thank you very much. Sorry. Thank you, Deputy Director, I appreciate it. We don't have an update per se for FCMS. There was just some material that was included in our packet. That project is ongoing and it is in the phase that indicates in our packet. We'll get a more robust update now that we have the bonding, bonding and all those other things that's moving forward, we'll have more robust update and future commission meetings. And unless there's anything else, we will adjourn slightly early today. Okay. All right, thank you, everyone. Thank you. Have a good afternoon.