

Chair Jennifer Nash: Good morning and welcome to the May 21st, 2025, Oregon Public Defense Commission meeting. I am Jennifer Nash, chair of the commission. I welcome everyone to today's meeting, and this is our first meeting with our new executive director, Ken Sanchagrin, who is somewhere. I see him on the video. And before we get started with public comment, I'd just like to make a brief announcement that Commissioner Wright has resigned her position from the commission, and we are in the process of recruiting for someone to replace her. Commissioner Wright was designated as a non-voting current provider member from a rural area, and she no longer fits that category. So, she's no longer eligible to serve in that position. I'd just like to say on behalf of the commission, I'm very appreciative of all her contributions. She was a very valuable member to the commission and I'm sorry to see her leave. There is an announcement that went out, as I said, to replace her.

Also, interested parties may note that that announcement also includes the urban non-voting current provider position, and that's because Commissioner Reinhard has indicated that he would like to leave the commission and will be leaving the commission as quickly as I will let him. [Laughter] He has graciously agreed actually for several months now to stay on the commission until we were in a more stable position and could find a replacement. And so, I thought it was a good time since we were already recruiting for the rural position to also recruit for his position, and he will resign his position when we have streamlined the process and submitted some names to the governor's office. So, if you are interested, if you're a current provider of public defense and you're interested in being on the commission, please submit your interest in joining the commission. If you go to the governor's web page for board and commission service, you will see the process for that. And we encourage you to do that as quickly as possible because our goal is to be able to have names to the governor in early June, which I realize is a very short turnaround. But we also have people who are current providers who have already applied for the position. So, we have some names already. So, please put your name in as quickly as possible.

And with that, we did receive public comment, written public comment from a number of folks. We received from Olcott Thompson, we received from Kathleen Streck, and we received from... I didn't write it down, I'm so sorry, I meant to. The PCR case manager, and I'll find out and I'll put that on the record so that we can make sure that we acknowledge that. We do have one request for verbal public comment. I see Ms. Smith is here and is ready. And Ms. Smith, whenever you're ready, you have three minutes to give your public comment. Good morning.

Addie Smith: Good morning. Can you hear me?

Chair Jennifer Nash: I can. Thank you.

Addie Smith: On the form for people who want to be on the commission, and I don't have the name of it right here in front of me. It was on the agenda. The RAC, I think, is that what it's called? The RAC? I can't hear you.

Chair Jennifer Nash: So, I won't count this as your public comment time, but I will answer your question because that's helpful information. No, the Rural Advisory Committee is not the commission. The Rural Advisory Committee is an internal committee, and we'll hear more about that today, that writes the Oregon Administrative Rules for the agency. And I believe what that topic is going to be about is wanting a commission member to be on that committee, which is an internal committee to write the administrative rules for the agency. The commission membership issue is a separate application process and the two positions... There are other positions that are open right now, but the governor's office has already received names of... We've been going through a lengthy vetting process. The two positions that are open are for current public defense providers.

Addie Smith: Now, the rules advisory, I think I sent in a form for that and you're saying that that has been filled. Right?

Chair Jennifer Nash: No, I'll tell you what. Why don't you and I have an offline discussion about this? I'm happy to answer all your questions.

Addie Smith: Yeah, well, I wanted to make a quick statement about that because I sent in my application for something and I thought it was that rules advisory commission. It may be something else, but on the bottom of that form, it asks several questions. It asks if you're white, it asks if you're a person of color, it asks if you are Asian or Hispanic, but there's nothing on there for Black or African American, absolutely nothing. And I am not a person of color. I am Black. I am African American, but there needs to be something on there. I think that form discriminates against Black people who want to be on that board, and I can't for the life of me, and it's simply because I'm in my car. I had to take care of an emergency this morning, and I don't have it to even show you, so I apologize.

But I also wanted to comment on the lack of attorneys. Because of the experiences that I have seen Black people, specifically young Black men, have had to experience with these attorneys. Having a body is not better than having an attorney, specifically for the young Black men who have had to deal with attorneys in Washington County, a racist despicable county, and have had to deal with racist judges. It is horrible having an attorney in Washington County that is unprepared. And my suggestion would be for all of the attorneys in Washington County, do not send them to court to represent specifically young Black men or Black people at all to court in Washington County to represent

them as their defense because they are just as bad because they are just as racist. And it is horrible for these young men to have to deal with the judge, the deputies, and then a horrible racist dump truck attorney who is not there to represent them properly, who is only further harming their case and causing more problems, which include having them sit in jail longer, having them to be convicted when they're innocent.

And I know specifically a young man that this has happened to. He has had an opportunity to talk to several young Black men that are in jail there now and have had to deal with horrific defense attorneys that were appointed to them or assigned to them by OPDC. Do not assign, I'm going to say this again, because I have had attorneys to say, and I've heard them say this, they are not going to ruin 20 years of friendship with the DA's office for a defendant. Do not send Washington County attorneys, attorneys who have law offices in Washington County, to represent defendants in Washington County Circuit Court. They are not going to stand a chance. The whole entire system is against them. I don't believe that these attorneys... These attorneys need to be, honestly, disbarred, but when you send them in there intentionally, it seems to me like OPDC knows that they are dealing with a no-win situation.

Chair Jennifer Nash: Thank you for your comments, Ms. Smith. I appreciate it. All right, that ends the public comment period that we have, and Ms. Smith was the only person who had signed up for public comment. So, next, I'm actually wondering, I saw Judge Powers, do we want to have Judge Powers go before you give the unrepresented persons presentation, just to be...

Ken Sanchagrin: Oh, that would be fine with me, yeah, to be respectful of his time.

Chair Jennifer Nash: ...respectful of his time.

Ken Sanchagrin: Yep, that sounds great.

Chair Jennifer Nash: Thank you. Judge Powers, we'll go ahead and take you out of order. I see you logged in and I know that you have a busy docket. So, please. Thank you very much for coming to our meeting and speaking. I will say, just when I saw that you were going to be speaking, I thought Union County and Wallowa County, why are we hearing from Union and Wallowa County? That's interesting. And then I realized very quickly thereafter that there is a growing unrepresented problem in Union and Wallowa County. And so, thank you very much for coming to the commission and coming to talk to us about the issues that your county is facing. Please.

Judge Thomas Powers: Yeah, no, I appreciate that. Can you hear me all right?

Chair Jennifer Nash: Yes. Thank you.

Judge Thomas Powers: Okay. Yeah. Yeah, let me just give you a quick snapshot just to get some sense of just the demographics and the court system out here. 10th Judicial District is Union and Wallowa Counties. So, it's two counties, two courthouses, about an hour and 20 minutes' drive apart. Our combined population is about 33,000-34,000 people. So, it's sort of the prototypical Eastern Oregon rural judicial district. We do have two judges. Historically, our public defense services have been provided by a consortium. For 20-plus years, it was five full-time equivalent attorneys. For a number of years, I was one of those five and left the consortium when I joined the bench eight years ago. And Judge Boyd, who took the bench this January, also came directly from the public defense side. So, he and I. And given the demands of public defense right now and the issues we're dealing with, I think it's somewhat helpful that the bench out here is intimately familiar with public defense services, how they're delivered, and how they're administered. So, it typically was five full-time equivalents and consortium. One or two contract cycles ago, things did change. We have a private firm that contracts with three lawyers that used to be independent attorneys. They still have independent offices and essentially are like a consortium, but they're administered through a private firm out here, Eagle Cap. So, three of those full-time equivalents are there. One has an independent contract. He used to be with Eagle Cap, but now he is the fourth independently. And a non-profit firm in Baker City, Elkhorn Public Defenders, provides the remaining coverage for our counties.

One of the obvious reasons that we are in the position that we're in is climbing to the top of the charts on, at least per capita, unrepresented basis is that when Judge Boyd left the bench, that's 20% of the public defense workload disappeared. There have been efforts through the Elkhorn group and another firm that's over in Grant and Harney counties to essentially cobble together another full-time equivalent. It's been a mixed bag. There's been a lot of turnover with the attorneys that would be providing those services. So, that's been a real challenge. We currently have, in our district, we have 88 unrepresented clients. That's about 111 individual cases. My understanding is that's about 0.46 of the max. So, we are right now essentially half an attorney now. We have been able to... And certainly we out here appreciate the provision of out-of-district attorneys. We have avoided most of those really challenging in-custodies where you have somebody that you really don't want to have back out on the streets, quite honestly, and the clock is ticking and OPDC has been able to find coverage, and we appreciate that, and the quality of the work has been extremely good as well. So, that's very much appreciated.

One of the things that I just wanted to bring to the commission's attention is that the reason I think that we've been able to provide the coverage out here for as long as we have, and even right now, is that all the attorneys that are

under contract, I think every single one of them is at or slightly above the 100% of their MAC, and every single one of them is willing to do more work. And I would just urge, as people are looking at policy changes and policy initiatives, to understand the value of consortia attorneys and to understand the value of these experienced, qualified, hard-working attorneys to give them the opportunity to work at or above MAC in a way that gives them reasonable compensation for that, and also to lower any administrative obstacles to them being able to take on an additional caseload. I just want to emphasize that. I know there's a lot of talk. I'm removed enough from public defense that I don't know [Laughter] exactly what some of the administrative systems there are in place for the assignment of attorneys, tracking time, the billing of time, compensation on an hourly rate, but whatever policies are in place that would apply to public defense work, I would just urge that those be administratively as unburdensome as they could be and to allow flexibility for caseload. The attorneys out here, if they ever do run into the point, and a couple of them have occasionally, where they believe they have hit their ethical case limit, they are not shy about letting us know. But I just want to make sure that any caps on their allowed caseload are not arbitrary and that there is that flexibility so they can step up and do more because they've been doing a great job with it.

I also just wanted to mention, and I don't have some big presentation, but to answer questions and provide information that I can, I often get asked what can the court do and what courts generally can do and what specifically we're doing out here. The short answer is I cannot go out and no judge can go out and shake defense attorneys out of the trees. We can't just create them out of clay or whole cloth, so that's always the limit on ultimately what we can provide, but what we're doing internally and working with stakeholders out here includes some specific things. One is that, sort of perverse, but there's also a shortage of district attorneys out here. It's tough to get people to come out and work in rural eastern Oregon, so there's a symbiotic relationship or sort of that equistasis situation where the DA is going to at some point only charge what can be defended. And particularly the Union County District Attorney's Office has been short-staffed for a number of years, and they have been working with us to do things such as treating C misdemeanors as A violations. So that reduces the need to then have attorneys being assigned to C misdemeanors that are often cases like public trespass and things like that where you're never going to see the client, and they just build up a bunch of cases, and then they disappear, and the attorney has burned a lot of their caseload. So the District Attorney's Office has been very proactive about inappropriate cases, making their own motion to treat C misdemeanors as violations.

Another is because our courts out here have a very robust pretrial release program. In the old days, it used to be if somebody violated the release agreements, they would get charged with contempt. And so, you'd be bringing

people in who already had an outstanding case and just piling on two, three, four additional cases for really no reason other than to get them unreleased. We now, with our pretrial release program, can work on revoking releases, and the DAs don't have to file those contempts and still protect public safety without burning those credits, so that's been helpful. We also, just on, it's sort of at the margins, but I think it does help when we do have... We have mass dockets... [Laughter] Like, mass docket in Union County just looks a lot different than mass docket in Multnomah County. I used to be an on-call attorney, a trial call attorney years ago, and you'd go down to the presiding courtroom, and there'd be 250 people there. For us, a mass docket is 15 to 20, but it is still mass. And when we do that, we try to do it in a way we don't burn a lot of attorneys' time by having downtime.

So, we will schedule, for example, plea and sentence hearings. So, one lawyer comes in, and it's basically Lawyer Smith's day, and we'll set a bunch of hearings that one day for that lawyer, so that nobody else is sitting around waiting for their one case. So we're trying to do things like that to the extent that we can. And then when we do have the out-of-district attorneys that are appearing generally remotely, although many of them we very much appreciate make the drive all the way out here, we try to structure things so that they can go first because they often have cases in multiple jurisdictions, and we don't want them burning their time in our court and in other courts, quite frankly, by sitting around, and if we can get to them first, we get to them first and free them up. So, those are some of the things that we're doing to, as I said, at least at the margins, increase efficiency and allow attorneys to work their cases in a way that they can take as many cases as they can take because they're not just spending a lot of downtime sitting around waiting for their case to be called and things like that. So those are the messages I wanted to get out there sort of affirmatively, but I absolutely want to take any questions or comments or feedback from you all.

Chair Jennifer Nash: Thank you. That's really, really helpful information for us. Do any commissioners have any questions? I have a question. What percentage of your cases, if you know just roughly, are covered by hourly lawyers who are not part of the law firm or consortia?

Judge Thomas Powers: Right now, not that many. Most of them are covered by the four specific attorneys, and then the fifth full-time equivalent, which is really two or three lawyers that are provided through the Elkhorn Group. I don't know beyond that how many are hourly, but in some of our major felonies, that has been the case. Out-of-district attorneys have been coming in to provide coverage. We had a double homicide case. We've had some Measure 11 sex abuse cases. Those folks, I'm assuming, are hourly but out of the district. It's mainly been on the

high-end cases. But I think we now are in a position that those attorneys are picking up some of the misdemeanors just based on volume.

Chair Jennifer Nash: Okay, thank you. Judge Lipscomb?

Paul Lipscomb: Yeah. Thank you, Judge. What I heard you say throughout this, there were two things that struck me. One, the suggestion that courts can reduce attorney time by reducing cases from misdemeanors to violations, and I think that's worth bearing in mind. And also, the importance of reducing court waiting time for lawyers in order to keep the fees down and the lawyer time down so that we can process more cases more quickly. And the third one was encouraging attorneys to bundle their cases for a single appearance, and that also would be a big help. But we need not just lawyers, but we need judges like you to cooperate to get this done. I thank you for being here, and I thank you for the attitude that you bring to the court system, especially in Eastern Oregon. Thank you.

Judge Thomas Powers: Thanks for that.

Chair Jennifer Nash: I'm a practicing attorney, and when you said that you try to bundle attorney time, I thought, oh, that would be just great. Because then you have your own flexibility as a lawyer, too. You know if you've got to get someone in, oh, I can do it on this day, on this time, because you already have that time that's your time in the court. So, that's a really interesting concept, and I like that idea and appreciate you sharing that with us.

Judge Thomas Powers: Yeah, and one of the ways we can do that is there's an upside to a small district. I mean, it's like the four or five lawyers. You see them every day, and we have a very good sense of their schedules. One of them does justice court down in Baker County, for example. So, we know that on that, we're not going to do Logan Joseph's cases on Tuesday mornings, but that makes it a lot easier to do. It's not a perfect system yet, but I think it does help. And we have a drug treatment court in Wallowa County. We have a drug treatment court in Union County. We have a behavioral health court in Union County. And in all of those specialty courts, of course, people coming in need representation, whether it's just a plea deal, whether it's a conditional discharge, whether it's a deferred sentence. All of that involves attorney involvement up at the front.

So, even though we have those programs, it hasn't really diminished the need for public defense services because those people who potentially come into those programs need counsel at the outset, but we do have those available, and to the extent that, again, at the margins, that might help reduce, for example, probation violation caseloads. If you're working with people in a specialty court, you can manage their probation without having to do a show cause and then

bring a lawyer in and that sort of thing. So, that helps at the edges as well, to be able to manage people who are on probation if they're in specialty court as a term of probation.

Chair Jennifer Nash: Thank you. Commissioner Buckley?

Peter Buckley: Thank you. Judge, we had a hearing in Jackson County, where I am, last month, and there was testimony about frustration with public defenders getting access to their clients. Is that an issue for you at all, or do public defenders have good access through the jail system?

Judge Thomas Powers: Yeah, they have. That's a great question. It used to be pretty bad. For a long time, the Wallowa County jurisdiction contracted with the Umatilla County Jail in Pendleton for their inmates, and it was just not... And when I was doing public defense work, it was insane. I'd have a day that I set aside for jail visits, and I'd be in Union County and then have to drive from La Grande, an hour-and-a-half round trip to visit my Wallowa County clients in Pendleton. And in the winter, you're staying at home, you're just not getting anywhere. We now are with a system where the Wallowa County and Union County adults in custody are all in one facility in La Grande, and it's pretty easy. The jail staff is extremely professional. They are very accommodating, and they bend over backwards for access.

Peter Buckley: Great. Thank you.

Chair Jennifer Nash: Commissioner Harris.

Rob Harris: Thank you, Judge Powers. I think you made some good points on how the system can create some efficiencies without decreasing access to justice when all the partners in the system work together and try and solve these problems. I think that's a good message if we can get that out statewide. A couple of comments, case assignments and like bundling cases – that's great. Washington County has pretty big mass dockets, and one of the things that I think the agency can be aware of as we evolve or review how cases are assigned in each county in this state is being aware of the ability or the opportunities to make efficiencies on our side, too. Probably other administrators did this, but when I was the administrator in Washington County, I kept a calendar of everyone's court appearances that was under my consortium, and I knew if I had three PVs came in and they were Friday at three o'clock and I had one attorney with one case Friday at three o'clock on that PV docket, that attorney would get those cases.

Judge Thomas Powers: Yeah.



Rob Harris: Now, I never gave more than maybe three, maybe four cases, and we'd have mass dockets where there was 12. So, I'd have three attorneys in there, but I could really efficiently do that and manage that. And I think that's something, as the state takes over some of these case assignments, this is a message, I guess, to Ken a little bit, is to make sure that we have a good training within the counties on our side of the system to take advantage of these opportunities. Probably most people do that, but for those who don't do that, some sort of a system like that, I think we need to make sure that happens on our side, too. Charging with violations, I think that's a real opportunity for us. And I'm not sure about this, I'm going to throw this out there as an idea, but there's a couple of ways to do that. You could cite them, arrest them, charge them with... Shoplift, right? A theft 3. Then they come in, the state elects to reduce it. Well, by then, they have a right to an attorney because they've been charged with a crime, and if they don't show up, there's going to be a warrant for them. They never get to the violation opportunity. But if you initially charge them with the violation to start off with, that's a whole 'nother story. And I think we need to take a close look at how maybe we can implement that. Because if it's a violation, person doesn't show up, the judge can, from my recollection under the statute, is enter a finding of guilty. At that point, the case is closed, there's a small fine imposed, we don't have a lawyer, we don't have a warrant out for this person.

Judge Thomas Powers: Right. Yeah. It's a default, yeah, exactly. On a violation, if they are to appear as a default, and you can enter a judgment of default...

Rob Harris: But the key is not charging them with a crime in the first place. So, I don't know if that's a statutory issue, certainly a DA could choose to do that on their own, but it sounds to me like it may need a statutory fix if DAs are unwilling to do that.

Judge Thomas Powers: Well, and DAs can reduce it. They can, as you know, once they file, they can actually elect to reduce to a violation. The court, I mean, I think it would take a statutory change for a judge to be able to do it, for the court to be able to do it, but the DA can elect, even after charging, say, "Hey, we elect to charge this as a violation," and then they FTA, and then, you know.

Rob Harris: Right, and that's what I'm saying.

Judge Thomas Powers: Yeah.

Rob Harris: Is that we have DAs in...

[Crosstalk 00:29:57]

[Laughter]

Rob Harris: ...who are not probably so interested in doing that.

Judge Thomas Powers: Right.

Rob Harris: But there are crisis counties as well. And I just saw some data that Washington County increased their charging by some...double digits. And so, it's a little disingenuous, I think, for some prosecutors to say lawyers need to work harder, it's clearly their fault, but we're increasing our charging by 28%.

Judge Thomas Powers: Yeah.

Rob Harris: I'm not saying they shouldn't charge those offenses, by the way. I'm saying that we just need to be realistic, and maybe there needs to be a little triage on the DA side as well, as they are doing in your county.

Judge Thomas Powers: Yeah.

Rob Harris: I think that we do need to look at a little more judicial authority to resolve cases if the other partners in the system are not interested, I don't want to say unwilling, don't think it's the right thing to do to try and make these cases more efficient and resolve this problem. And so, I appreciate the work you've done, and I think that this is an issue that deserves a lot more discussion, probably in the Salem level, not just here in this commission.

Chair Jennifer Nash: Thanks, Rob. There was a bill in the Legislature and the House Judiciary Committee to give judges the discretion to reduce misdemeanors to violations, and it died in that committee. There were various reasons why that happened, but I think that there is some space for us to step in in future legislative sessions because I think that's a really important tool to be able to... We've heard from other judges in other counties who use that, whose DA's offices use that pretty effectively, and I've asked Ken to take a look at, or to ask the CJC to provide us, the commission, with some data about the effect of, if any, and I suspect the answer is not much, on public safety in those counties that utilize that pretty extensively. Because I think that'll be pretty powerful data to be able to present to the Legislature to encourage statutory change. So, all very timely. Commissioner Harvey.

Alton Harvey Jr.: Thanks, Chair Nash. Thank you so much, Judge, for your presentation, and I just wanted to kind of piggyback on what Commissioner Harris just said. When you mentioned the reducing to a violation, being the commissioner on this commission with lived experience, my spidey senses started tingling in a good and bad way. In a good way, especially in a small rural area, I could see how that could be beneficial, but in a larger populated area – Multnomah County,

Washington County, places like that – I could see, even from my own personal experience, how as a criminal in the system and having to rely on any little crack to try to beat the system, I could see how we, as a criminal, could start taking advantage of something like that. And so, I guess my question to you is, do you – I mean, it sounds very promising, it really does – but do you see a trend like that where the quote/unquote, I guess, I don't know if criminal is the right word to use or the defendant is the right word to use, but do you see that? Do you see something like that possibly happening? Does that make sense? Does that question make sense?

Judge Thomas Powers: Yeah, yeah. They figured out a way to game the system somehow.

Alton Harvey Jr.: Yeah. Yeah, yeah, yeah, yeah.

Judge Thomas Powers: Yeah. I don't know. Conceptually, it's an interesting question where I just don't know how thought-through some of the underlying criminal activity would be. But for example, okay, the big shoplifting target in Union County is a Walmart. There are 200 video cameras in there, but people go in there all the time and seem surprised when they get caught. But if you go in and say, "Oh, I want to take this stuff, but I'm going to make sure it's not worth more than \$99.99." Because that's a C misdemeanor and I can walk on a violation, basically a traffic ticket on that, whereas if it was \$101, it's an A misdemeanor and that's not going to get reduced and I'm going to go to court and I'm going to get charged and I might get a criminal conviction on a serious misdemeanor. I can see if somebody really was that into it, and people who are dedicated to doing that, they may see that as a loophole or game in the system. I just don't know. I just don't know.

Alton Harvey Jr.: Another part to what you and Commissioner Harris has mentioned about the changing of the statutory where you guys would have authority to do that, I personally feel, especially after hearing you speak and not knowing you, but I have a pretty good gauge of personality, I feel like judges that are vested in the problem, that are vested in the community, I feel like you guys would have more influence on speaking to some of these people as opposed to someone that's just about the system. Like Commissioner Nash just said, I think we need to hold space around something like that where we can get you guys, the judges, more involved in trying to weather this storm, if you will.

Judge Thomas Powers: Yeah, yeah. No, and out here, again, it's a small district, people know people, and we have our community partners, stakeholders, and we work with them. I work with them pretty closely on all of this. One of the things to keep in mind is victim rights, and what we call, "Oh, it's a C misdemeanor, who cares?" If you are the victim of the C misdemeanor, you may care, and in those cases, the DA will likely come back in and say, "Hey, we've got an alleged victim here who they

don't want this to be a traffic ticket. They're really upset." And out here, one of the big ones is people stealing cans for deposits. And there for a while was actually like a ring of people that were stealing cans. And it seems like nothing except that if you're at your house, and you found out that 2:00 a.m. when you're sleeping and your kids are home, somebody was prowling around on your front porch, and all they stole were cans, but they were prowling basically at your house, they get really upset. It's a C misdemeanor. But the DA's going to have a tough time just sort of, "Well, I'll treat it as a traffic ticket." And as judges, we have to be really careful about that as well. We all know that somebody who's alleged to be a victim of a crime doesn't necessarily have veto power on what the DA does, but they at least have some input. We have to be careful of that, too, out in the community.

Alton Harvey Jr.: Well, as a person that had lived experience, I got to tell you, as well as the commission, punitive stuff doesn't work all the time with everyone, but it certainly does with some. And I just happened to be one of those people that it had... I needed that. I needed that to move further in my journey. So, I'm not saying that we should... And that's what I meant when I said my spidey senses were tingling good and bad because, yeah, some of these people really need to be held accountable. I get it. But then I also feel like if you, the judges, were more involved and trusting your discretion, I think we could at least take a look at what's going on, more clearer anyway.

Judge Thomas Powers: Yeah, I tend to agree. Yeah. I have to agree. I'm a judge. You're going to give me more discretion? Heck, yeah. Right?

Chair Jennifer Nash: I will say also that we talk about in the system reducing misdemeanors to violations and the impact on public defense, but it does have a significant impact on a defendant, too, because when you're barely making ends meet and you come in and you're charged with a misdemeanor and you have a public defender, the financial obligations for an ultimate resolution in that case can be far less than if you have a violation. If you're convicted of a violation, you can have a significant fine, which for a lot of people, \$150 fine is the difference between being able to feed your kids or not. And so, we think about these things from the systemic standpoint, but they do have a collateral impact, I think, on people in the system, too, that we need to think about.

Judge Thomas Powers: Yeah, I think that's right.

Chair Jennifer Nash: All right. Are there any other questions or comments before we let the judge go? All right. Well, thank you very much for your time. We really appreciate it. This is very helpful and very good information for us. And thank you again for meeting with us this morning.

Judge Thomas Powers: All right. My pleasure. Thank you all for the opportunity. And I'm going to go out and see what's waiting for me in the Wallowa County Courthouse. Who knows?

Chair Jennifer Nash: Thank you. All right. And with that, we'll move to the update in the state regarding the unrepresented persons in Oregon.

Ken Sanchagrin: Thank you, Chair. Mara's just pulling up some slides for me here. For the record, Ken Sanchagrin here, interim director of the commission, for a brief update on the unrepresented crisis. And we have Maddie Ferrando here as my lifeline if there are any questions that I can't answer. So, next slide, please. This update is going to look very similar to what was presented in April; however, we do now have an additional month's worth of data that we're displaying from the OJD dashboards. Starting with the in-custody unrepresented crisis, we have seen that since the most recent peak of unrepresented folks in custody, which was around the end of January, we are looking at a slight downward trajectory, even though the chart when we look at the full panel shows an upward trajectory, a lot of that attributable to the spike back in mid-2023. When we look at our out-of-custody pretrial numbers, our most recent peak was in around early March, and we have been holding somewhat steady since then. The trajectory when you do zoom into that time period is still slightly upward, but I think that also given the increase that we see in case filings, that's an overall positive trend that we're seeing because that upward movement is not commensurate with what we've seen in the upward movement in filings. Next slide, please.

I think as you've heard over the past several meetings at least, this is really a story of a few counties driving that overall upward trend. When we look at Multnomah and Washington County, if we isolated the data to just the last year, so basically from May to May, we've seen our out-of-custody numbers increase by over 185%. However, the rest of the state, when we look at that group in the same time period, we're down by about 6-1/2% year over year. However, when we look at the peak in out-of-custody unrepresented individuals in the rest of the state besides Multnomah and Washington, which was around mid-September 2024, we're actually down about 30%. So, you can see that little peak there as we move through 2024. Also what we're seeing in Multnomah and Washington County, again not necessarily news, but the share of misdemeanors versus felonies has really been impacted over the past year as well. At the beginning of 2024, the share of misdemeanors as far as cases driving the unrepresented crisis were about 33%, but now they're almost 60%, and so we've seen this flip-flop there. Next slide, please.

We also have some slides that are more presented from a tracking perspective. Here we have our Temporary Hourly Increase Program numbers basically since August of 2022. As usual, please note that we're only halfway through May, and so those numbers are going to increase, and it looks like they're on target to be

equal to or around where we have been for the past couple months in March and April. Next slide, please. We also have an update on our Betschart case assignments that are being coordinated by our analysts here within the agency. You can see that the majority of those cases that are being assigned are in Multnomah, Douglas, and Washington counties. We can also see the impact of our Trial Division team cumulatively over time as they've been taking Betschart case assignments as well. And last slide, please.

And finally, here's a little bit more detail on the overall unrepresented share of cases that are being taken by our trial team. Again, unsurprisingly, we see the highest numbers in the counties that we are based in. And so, if you could maybe combine Multnomah and Washington County, that's about equal to or close to equal to the impact that we have in Jackson. And then Marion, a little bit less so there. I'm not sure if folks have specific questions. This is a pretty high-level overview this time, but certainly whether there are questions that I can answer today or if there are items that you would like to begin seeing in the future, please let me know and we can include those going forward.

Chair Jennifer Nash: Are there any questions by commissioners? Any comments?

Ken Sanchagrin: I see Commissioner Buckley.

Peter Buckley: Yeah, just commenting. It's very helpful to see the data from Washington and Multnomah broken out, and the more we can get into detail on what's happening in those counties, it would be greatly appreciated.

Ken Sanchagrin: Yeah, it would be my pleasure. And this is something I'm diving pretty deeply into as I prepare the governor's timeline letter. And so, I'd be happy, especially in June, if we want to do a deeper dive and go through some of that analysis as well. That would be a great topic for that meeting.

Chair Jennifer Nash: That'd be great. Thank you. I just also want to make a note for something that may not be on people's radar, but it's important for the commission and also for providers. The THIP program is only authorized through June 30th, 2025. That means for new appointments. So, anyone who's already been appointed will continue to be paid at the same rate, but we have not extended THIP and will not be extending THIP past June of 2025. So, starting July 1, we still don't know what the state overall budget for the agency will be. So, we don't know what the hourly rate is going to be set at by the Legislature, but it may have a significant impact on our ability to have attorney appointments on cases where there are hourly lawyers that are needed, so just kind of put a pin in that for commissioners. So, any other questions or comments? All right. I agree. I think breaking up the data for Multnomah and Washington is really helpful and really important. The more information we have about the different counties and the

causes will help us be able to figure out how to move forward to address some of the issues that we're having. All right. So, next item on our agenda is a budget update from Mr. Amador.

Ralph Amador:

Good morning, Chair Nash, Co-Chair Mandiberg, members of the commission. My name is Ralph Amador, I'm the budget and finance manager for the commission. Today we'll be presenting the month-end financials for April of 2025. This report incorporates all the actions taken in the December E Board and the February realignment. The agency is still experiencing overages in the preauthorized expense and the court-mandated expense divisions due to the increase in coverage on the hourly caseloads. Next slide. You'll see here the Adult Criminal Division is showing a projected savings of \$1.8 million. In this area remains constant churn with some experienced attorneys leaving and newer attorneys taking their place, which is talking about some of the savings, and there's some attorneys that are leaving to take hourly cases as well. The budget is 92% spent at a 92% rate. So, 92% of the budget is used and they're spending a 91% rate in that. And as always, I'll wait a couple seconds. If there's no questions, we'll move on to the next one.

The Juvenile Division is looking at a projected savings of \$223,000. There's a plan to add two additional attorneys, I believe one in Southern Oregon, one in the Valley area. These are new capacities of people without caseloads that are going to come on to help with some of the areas down south. This is just volatile where it is. They're spending, even their burn rate is the same as what the spend is where it should be right now. Next slide. Parent Child Representation. This is projecting a \$600,000 in savings and it will fully utilize the IV-E funding that's available, thanks to an expedited processing by Oregon Department of Human Services. We were showing an overage at one time a couple months ago because we weren't sure if we were going to get that IV-E money in and we did get it processed and we're ready to go now. So, there could be some savings here as well. Pre-authorized expenditures. This is one of our problem areas. It's projecting a \$1.6 million problem. We're projecting about \$4.5 million in expenditures every single month and that's based on a three-month rolling average. The majority of these expenditures are in psychological services, other experts, and travel.

Chair Jennifer Nash:

Commissioner Lininger?

Tom Lininger:

May I ask a question, please? During a period when we're over our budget for pre-authorized expenses, we continue to make those resources available, and we just have to figure out later how to cover it in the budget? Or does that mean some of these resources won't be available in cases that need psychologists, for example?

Ralph Amador: Chair Nash, members of the commission, Commissioner Lininger. So, in this particular instance here, we'll continue to authorize expenditures for pre-authorized expense. When we issue an authorization for work, we're currently experiencing a 60-day lag before the billings hit. So, things that are happening now won't get billed until next biennium on average, so we're going to continue to do this. The overages, I'll talk a little bit about it at the end of the presentation. Basically, we're working with DAS CFO, LFO's been alerted, and we're going to be marshaling all the resources that we have in savings across the agency to point at these overages in order to pay these bills to make sure. So, our plan is to fully expend every dollar that we have and going. The agency is currently in a spending freeze, meaning that we're not spending anything that's not projected and necessary to keep the lights on, and we're not buying anything. We're not doing anything, we're sending all the resources to fix these problems. Or to not fix them, address them. I'm sorry, I can't fix the problems, I can only address the expenditures. Next slide please.

Court-mandated expense, this is projecting a \$5 million problem. Again, we have \$4 million in expenditures every month projected; 1.5 of the planned expenditures is other fund related to the application contribution program. So, the expenditures for court-mandated expense that are attributable to attorney fees, travel, and THIP is more around 8 million or so, but we have to show this because we have some stuff coming through that's going to be transferred money over. And this is a total fund look, it's not just a general fund look. So, monthly billing is one of the main drivers of this increase. And again, their burn rate is over their budget at this point.

Chair Jennifer Nash: Mr. Amador, I don't know what you just said. I mean, [Laughter] can you explain again? I mean, I understand the bottom line, but you started talking about it's actually an \$8 million problem, but not really. Can you kind of go through that again? Because you lost me.

Ralph Amador: Chair Nash, I'd be glad to, and I will actually slow down my pace because I was looking at the clock again and trying to get it done in 15 minutes. Court-mandated expense is experiencing a \$5 million problem projected. We are looking at \$4 million of expenditures every month based on a three-month rolling average. The majority of those expenditures are attorney fees, travel, and THIP. This budget, you're looking at a total funds budget, which includes other funds. And the other funds are related to the application contribution program, which is the program where we determine if people are eligible for representation. We get money, we receive receipts from Department of Justice, I'm sorry, Oregon Judicial Department, we get money, and we send it back to them so they can pay for their staff. It's a pass-through event, and that accounts for about 1.5 of what you see in the planned expenditures.



Chair Jennifer Nash: Ah. Okay. So, when you say it's really 8 million, that's what you're saying is that 1.5 of that million is money that essentially is passed through, so it's not ours anyway. Okay.

Ralph Amador: Yes, ma'am. Yes, ma'am. It is a planned expenditure, so we have to record it that way. I just didn't want people to think that the problem was 9.5 million when I'm saying there's 4 million in expenditures every month. So, I wanted to be clear on that.

Chair Jennifer Nash: Okay, thank you.

Ralph Amador: Mm-hmm. Next slide. The pilot project, these are the trial offices. They're operating at fully staffing right now, and they're performing as expected. I just want to note here that in '25-'27, we're not going to expect any savings in this area because if they're fully staffed, they should be spending their money straight away, and there won't be any expenditures. The reason there's been expenditures in the pilot project is because we were given money and there was a lag by the time we got fully staffed and fully established and everything else. So, this is like one-time savings for this biennium only. The Appellate Division is performing as expected. Something to note here is that they're projecting \$176,000 of savings. That may go down because they have end-of-year expenditures that include conference charges for the upcoming conference in June, and there's a lot of attorney dues and fees that we do pay at the six-month interval of each year. So, this may come down a little but not a lot going forward. Compliance, Audit, and Performance Division, this is performing as we expect it to be performing. There's not a lot to say about this other than it's moving along as it should. Administrative and Executive divisions are showing a \$300,000 savings here. This is performing as we expected it to.

One note is there are unplanned expenditures for the Department of Justice attorney general bills that we have never been budgeted for, but we're experiencing a lot of attorney general bills since we moved to the executive branch. We did note this in our budget as an exception request. Again, the Department of Justice represents us, all of our contracts have to go there to be legally sufficient and stuff like that. So, there's a lot of work that goes into being in the executive branch. So, we flagged it, and whether or not we get funded for it or not is part of a legislative decision at this point. FCMS, again, the project is going as it should, and I'm not talking about the project, the word is I want to talk about the budget. The budget is spending as we expect it to be spent. There are going to be additional savings of 1.3 million that should be about the most of it because we're trying to get really accurate on the projections being planned, what the salaries and stuff are going to be from there. So, next slide.

Special contracts, distributions, we have planned another million dollars to account for discovery, as we see it. We added money to this in the realignment just to be sure that we were going to be able to cover any discovery costs. But we're saying between normal expenditures between the guardianship program, which is about 66,000 a month in a contract, and some other expenditures for a consultant, we're looking at about 400-or-so thousand dollars a month we're planning for discovery as it comes in. And again, this is where we stand at the end of the day. We're looking at the agency. If we put all of our money towards all of the problems, we're still going to come up with about a \$654,000 shortage in the budget. We'll have a better idea of where we stand at the end of May. And I will say that we're working with DAS CFO on plans to do an internal rebalance to pay bills with all the savings that we have accumulated in other areas. LFO is aware of the problems and that the agency is monitoring all of the expenditures on a weekly basis. Every Monday we run reports and try to make sure that our authority is not over exceeded and then we can figure out where we're going to be and how we're going to land. But we are working with our partner agencies to make sure that we can keep moving forward.

Chair Jennifer Nash: Do commissioners have questions? I have some questions. So, we did an early session budget bill and rebalance. This is after that, these numbers?

Ralph Amador: We did do an early session rebalance, yes ma'am, in February. We did a budget realignment, and it was based on November numbers. So, what we couldn't see was a lot of the hourly charges that were coming. In January, February, March, our expenditures for PAE and court-mandated expenses exploded to where they were up around 4 million or more each month in each of those areas. By that time, we had expended all of the money we had for psychological services, which is about \$24 million. We'd spent all of that. We had spent all the money for other experts and such as well. Do note in that realignment, we did add \$7 million to the PAE budget, and we added another \$1.6 million to the court-mandated expense budget at that time.

Chair Jennifer Nash: You mean by added, you mean shifted or new infusion?

Ralph Amador: We shifted.

Chair Jennifer Nash: So, how did we get to where we are now, where we have such large shortfalls in the court-mandated expenses and the preauthorized expenses?

Ralph Amador: In looking at the data, my supposition is that we are experiencing this mainly because essentially, we're doing what we're told to do. We're covering hourly cases, there's an unrepresented problem. We're covering more hourly cases. We added three people whose sole purpose is to find attorneys for the unrepresented cases and on the hourly cases and THIP cases. And they're doing

a stellar job at it. They're finding stuff. We're adding 900 cases or so a month. You saw on some of the other graphs and stuff that Director Sanchagrin presented earlier that we're just assigning cases left and right.

One of the reasons why we are up in court-mandated expense, I think, really has to do with the fact that we've made it profitable to be an hourly attorney. Prior to the changes that the commission made in April of last year, you didn't get paid for a case until you finished that case. So, it wasn't really profitable. And that was really the only data we had was cases that had ended. We didn't have a good idea of what was out there for hourly cases. Now people are getting a case they're billing the next month. So, it's no longer a disincentive to take an hourly case if you can get paid every month going forward. That's positive cash flow that allows you to run like a normal business and that, I think that, we're seeing a lot of that. Our invoices are up, on a monthly basis, up around 4,500 a month. We've never seen anything like that. We're getting work requests in the \$4,000s a month. So, we've essentially eclipsed anything we've ever done before over the last six, eight months of time, and we, frankly, weren't budgeted for this, to do that. Again, we were budgeted for hourly cases, we were budgeted towards the end of the year. So, if you got a case last year, you may not bill on it for a year. And so, then we were paying for stuff on the take and now we're paying for it. We're paying as we go now, this time, again. So, that's a big, huge shift in how your budget is. It's like going from borrowed money to actual spending cash, if that makes sense.

Chair Jennifer Nash: It does make sense. So, essentially what you're saying is we're assigning more cases because we have assignment coordinators, people, because of the policy changes that were the commission's requiring monthly billing on those cases so that we can have good data. That means that we're spending the money faster than we were spending it before because people don't have to wait till their cases are done six, eight months, a year. They're billing as they go. So, we're seeing the bills faster. And the number of cases that are being assigned is much higher now too. So, that affects the preauthorized expenses because there are actually more cases that have lawyers that are now asking for more expenses associated with those cases. So, I don't know if you have an answer to this, but when do you think you would have a better... Well, let me ask this differently. How much time do you think it's going to take for you, for the agency, to be able to have a good handle on being able to project what those bills will be going forward? So that we don't have this big lag where we're suddenly in the hole at the end of the biennium? How much time do you think you'll need before you can have a good projection?

Ralph Amador: Chair Nash, that's a great question. Right now we're deploying a number of resources. I have a budget research analyst right now working on trying to track the amount of, when a case is assigned, to where the first bills are actually

happening. We do that for the PAEs. We know when a PAE is approved, we're projecting how far ahead before that invoice actually hits. At one time, it was 125 days, 75. Now it's under 75 days before that bill hits. That means they're turning the work around faster. Because a PAE, once it's billed on, it's done.

We also have one of our research analysts working with OJD data, court data, to actually try and see how things are, all the hourly cases and all the cases, and how they're assigned, so that we can try and see how there's... We tried to do it on a daily basis. That was too much data. It was killing our systems. So, we're trying to look at it on a weekly basis at what's assigned, whether it's hourly, whether it's hourly taken by a contractor, whether it's a THIP case, whether it's a contracted case, so that we can try and see what it is. It sounds like an easy project, but she's been working on it for a month, and it's just a lot of data, trying to cull through it, and see what's going on. I think we're a couple months out before we can actually see what's coming. At least we know that there's bullets coming from behind. And I hate to use... I'm a military guy, so those are the references I have to work with. But you can actually see where the fires are coming from, and now we're trying to identify from which sector it's coming from at this point. I think we're still a couple months out before we can actually see that.

I think in next biennium, once we start turning over, because we've already started turning over and bringing money forward, that it should normalize within a year. I think it would start normalizing to where we're spending money as we go. Just because the length of the cases that have gone on at this point, and there's still people that bill quarterly, and every now and again we'll get a bill for \$100,000 from a murder case that somebody was sitting on. I don't know how people live that way, but I mean, all props to them if they can carry bills that long. So, I think this is the right way you should operate. I've worked in other industries and ran businesses before, and I have no idea how you would sit on something without interim payments at this time. Not to say that we won't have to set some guardrails up, so that we start saying how long the case should take.

We do have data from the Oregon Economic Analysis area, OEA, it is a forecast that says the duration of what a case takes, so we can start putting some timeframes on a misdemeanor takes this long, a murder takes this many months, and stuff like that. So, we can start gauging that way. But again, we're starting to create dashboards, we're trying to set up things so that we can see everything and show the commission, basically on dashboards, where we're at and how things are standing. Hopefully, I've answered your question.

Chair Jennifer Nash: That's a really long answer, but also very helpful. I think one of the key pieces of data that we've been missing, and it sounds like we're working with executive

branch partners, is that exact information about how long does a case take. Because if you know how long a case takes, and you know the average amount a case bills hourly, and the average amount of PAEs, it will help a lot in terms of being able to at least forecast, which we've been unable to do. When we just issue these blanket pre-authorized expenses and have no idea who's going to bill and when. So, that I think will be very helpful information. Do other commissioners have any other questions based on what I've asked or what Mr. Amador has provided? All right. All right. Well, thank you very much, Mr. Amador. We appreciate it.

Ralph Amador: Thank you.

Chair Jennifer Nash: All right. Well, we'll move next to our action item and discussion of approval of the 2025-27 contract extensions.

Ken Sanchagrin: Good morning, Chair. I'm back again. So, introducing this action item, a memo accompanied your packet outlining some justifications for extending our current 2023-2025 contracts for an additional three months into the next biennium. So, that would be to have those extensions end on September 30th. Due to the uncertainty around budget and certainly some of the delays in budget, some of which can be attributed to my onboarding just within the last month, but then also the need to have real serious engagement with our contractors, I think that this would be a really important thing for us to do so that we can give staff sufficient time to get new contract templates together and vet those within the community.

One thing I do want to flag for you all, though, that may play a role in your discussion today is the commission or staff had put out a document entitled Exhibit F, which was an addendum to the current 2023-2025 contracts that would bring our contracts in line with the requirements of the Oregon Public Contracting Code and a few other requirements that are needed since we've moved from the judicial to the executive branch. Currently, 88% of our contractors have returned Exhibit F, which means that we have around 20 that have not been returned to us. There may be a few more that are waiting in analyst emails, but those are the numbers that I was given this morning. And the folks who have not returned Exhibit F have some pretty strong concerns, primarily focused in two areas.

The first is around language related to indemnification. The primary aim of that section is to notify contractors that now that we have moved to the executive branch that the Department of Justice would act as our attorneys if there was a suit filed against the agency and that that indemnification would extend to the Department of Justice. I think both just because of the indemnification language in general, that was spooky for some folks, but then also there are some

concerns given the adversarial relationship between some of our contractors and the Department of Justice, what that would mean if the Department of Justice was then, in fact, our attorneys in future litigation against OPDC.

The second concern was surrounding another section that was mostly flagged for, at least for my purposes, last night. We held actually an office hours for contractors to report some of their concerns. And so, the other concerns that were raised around section four, which really it outlines prompt payment requirements for folks who are either employed by or paid by contractors. And there was a lot of confusion, but then also some identification of some important issues surrounding the relationship that our contractors have with their investigators and other staff that are actually paid for by OPDC, but they do have a relationship between the contractors as they're doing the work for them. And so, some concerns there.

And so, the primary takeaways from our engagement with folks last night is that the feedback was very, very valuable. And I think that we have a lot of feedback that we can take back to the Department of Justice, especially as we're looking toward those '25-'27 contracts because these terms, unfortunately – and I say unfortunately for the contractors who I know are concerned about it – being in the executive branch, there are certain things that we as an agency just do not have control over. We do not have control over the fact that DOJ would be our attorneys if we were sued, and that is just now a fact that we live with, and it's not really negotiable. And a lot of the other terms we're required, unless we received a statutory change that would make us exempt from the public contracting code, we're kind of locked in. And so, we know these are going to be moving forward in the future contracts. We do have some opportunities, especially if we do this contract extension, to have more time to engage with the provider community and to try to right size some of that language.

But I think that the one rub that we have right now is that for our contractors to have an extension for three months, they will need to sign Exhibit F. And so, I think that at least our initial thought is to try to work as closely as we can with our remaining 20 or so folks who've not signed. From a pragmatic standpoint, I think that it's too late to renegotiate Exhibit F given the timelines, at least for this three-month period, but we can look toward making some refinements as we move into the new, what will become the new contract template moving forward. I'm going to certainly remain with camera on for any questions that you all have, but I wanted to tee up the discussion and hope I didn't go into too much detail, [Laughter] at least at the outset.

Chair Jennifer Nash: Well, actually, I think you need to go into a little bit more detail, frankly.

Ken Sanchagrin: Okay. Great.

Chair Jennifer Nash: Because I think maybe Commissioner Harris and I are the only ones because we were providers who really understand this Exhibit F issue in the granular detail that it is, but I think it's really important for us to talk about and for other commissioners to understand what the issue is. So, if you could explain specifically what the concerns are so that we have that for our discussion, that would be helpful.

Ken Sanchagrin: Okay. So, for the concern about the prompt payment requirements, would it help, I can share my screen as well, so we can focus in on the sections that we're discussing.

Chair Jennifer Nash: Sure.

Ken Sanchagrin: Yeah, okay. Let me make sure I've got the right window. Yes, Exhibit F. All right, can everybody see Exhibit F? Should I make it larger? Would that be beneficial for folks, too?

Chair Jennifer Nash: Yes.

Ken Sanchagrin: Okay. Is that a good size for folks?

Chair Jennifer Nash: Yes.

Ken Sanchagrin: So, for this first one, the first concerns that were expressed were around this section for the prompt payment requirements. And the concern that was raised was that due to the agency relationship that is created between a lawyer and a contractor, I believe that the concerns are really centered on the requirements to make payments promptly, to not permit any liens to be filed against the state, county, etc., etc., etc., in the event that payment is not prompt from OPDC to the contractor, that the contractors were worried that this would make them liable for covering those contractors. That is the way that I understood the comments that were made last night. And so, what the contractors were really requesting was an additional section at the end of Exhibit H, or excuse me, Exhibit F, good Lord, that would at least just make it crystal clear the relationship that exists from a payment perspective between OPDC and the contractors' like investigators and folks like that, who then work with our attorney providers. And so, this was more of a situation where clarity has been requested as opposed to a material change to the terms themselves.

The contractors also requested that we specify in Section 4 the statutory justification. So, just a reference to the statute for Section 4 to demonstrate. I believe that the language that is in here is actually taken directly from the statute. And so, it would be two pieces – to make a statutory reference within

Section 4 and to add a new section, which would become Section 15, to provide clarification. And I apologize, not being a provider myself, I think I probably butchered a little bit of their explanation. [Laughter]

Chair Jennifer Nash: I think what I gleaned from what you're saying, and you can correct me if I misunderstood, is that contractors have a concern that the agency may not pay persons who provide services like investigators or psychologists, etc., on their cases in a timely manner. And because they don't – they, contractors – have no control over the payment because they're coming directly from OPDS, that they, contractors, are violating this provision because they cannot ensure prompt payment because payment is in the hands of the agency. Is that essentially correct?

Ken Sanchagrin: Yeah, essentially, that's my understanding of the concern.

Chair Jennifer Nash: Okay. Commissioner Buckley, do you have a question?

Peter Buckley: Yeah. Is this language in the existing contract? I mean, why would we add this now to the extension is my question.

Ken Sanchagrin: My understanding is that this section, specifically Section 4, this is a section of Oregon law that we were not subject to prior to our move to the executive branch. Now that we are subject to the public contracting code, this is what you would see in all executive branch contracts, is my understanding.

Peter Buckley: Great, thank you.

Chair Jennifer Nash: Do we know if this is in the current contract? Because some of this other language is in the current contract.

Ken Sanchagrin: Right.

Chair Jennifer Nash: So, do we know if this particular section is already in the current contract?

Ken Sanchagrin: I don't have the contract memorized. I do not believe that this is.

Chair Jennifer Nash: Okay, thank you. Okay, and then the indemnification?

Ken Sanchagrin: Yeah. So, this is Section 11, the indemnification portion. And so, I think one thing that we were trying to pass on to folks yesterday is that it starts off with, "Related to the requirement to indemnify OPDC." This is not creating a new requirement for indemnification in general. There is an indemnification clause in our contracts currently that specifies that contractors are responsible for indemnifying the state if there are lawsuits that result from the contractor's



actions, not from OPDC's, not from anybody else's, but from their own individual actions. This section, what it does is it clarifies, as I mentioned earlier, that now that we're in the executive branch, if we had a suit of this type, that the Department of Justice would be our counsel. Or that the Attorney General, if there was a desire to, or a need, maybe due to a conflict, to have somebody else undertake our defense, the Attorney General would have to make that call at that time.

And so, I think that there are concerns. A, I think on one level it just kind of reinforces and re-flags for folks the indemnification that certainly is a worry to individuals because there's a lot of concerns about the extent to which, or maybe the lack of the extent to which, professional liability insurance would pay for such a situation. So, I think that that flags some concerns for folks. But then, some of the central concerns that were expressed last night in our meeting were more associated with having the Department of Justice be our attorneys at all for some of our juvenile providers who currently engage in adversarial work against, or where the Department of Justice is the folks on the other side of the aisle. I think there's concerns about hypothetical situations where the Department of Justice being our attorneys could be problematic for them. And so, this section is probably the one that we've received the most written feedback on, but then we did receive some of that clarification last night in the meeting that we had.

Chair Jennifer Nash: I will say the Department of Justice has always been our lawyers. That has never changed. I mean, there have been situations where we, the commission, has contracted with outside counsel because there may have, and it turns out there was not, but there may have been a conflict between actions that the agency was taking versus actions that the commission might. No, I shouldn't say it that way because it wasn't that they're... We all got sued in the unrepresented persons' situation. And so, there was a question about the actions of the agency versus potentially the actions of the commission and whether or not those interests diverged. And so, the commission had outside counsel that was separate than DOJ coun... And actually the agency had separate counsel because the DOJ was actually representing a different defendant. But other than that, in every single circumstance ever, even when we were a judicial branch agency, the Department of Justice attorneys have always represented the agency because we are a state entity.

I think, I would think, not I do think, the second sentence of that or the second paragraph is the more concerning paragraph, which is "contractors' obligation to pay for all costs and expenses include those incurred by the state in assuming its own defense and of its officers, employees, and agents." That, to me, looks like you're indemnifying OPDC for their expenses. And I do understand, to put another point on this, this issue came up in the last contract cycle or in 2022,

and the PLF was consulted and said, "Your malpractice insurance will not allow you to indemnify the agency." And the agency said, "Well, that's not what we really wanted. That's not what we meant." And so, there was a clause that was inserted with negotiations between the Department of Justice and the Professional Liability Fund, which is the malpractice carrier, that is in the current contracts that makes it clear that contractors are not going to be responsible for the defense costs for actions that OPDC takes.

So, the problem is, and I understand the concern, the problem is this language in this addendum looks like it is directly contrary to the language that's in the current contracts. And because it's an addendum, the way I might read it if I were being an aggressive attorney who wanted to stick it to a contractor was this is a subsequent term and therefore it supersedes, I'm not a contract lawyer, but therefore it supersedes the original terms. So, I do understand the concern, but I also wonder if we just struck that paragraph out of there, it would alleviate the concerns. Or if there was a specific reference that was made again to that, "No, we're not really saying what it looks like we're saying." Because on its face, it does look like the exact concern that people are expressing.

Ken Sanchagrin: Oh, I completely understand. I think that the way that that sentence is written, especially if you read it in isolation from your current contract, or if I just received this in an email and was scanning it and not looking at my other documents, I would interpret that the same way. Yeah, I'd be very concerned about it as well.

Chair Jennifer Nash: Commissioner Lininger.

Ken Sanchagrin: Thank you. And thank you, Director Sanchagrin, for walking through the language. So, I understand that one concern is a potential conflict of interest, particularly in cases in which the DOJ is already adversarial to the provider. And I just wonder, don't government attorneys find substitute counsel as needed to comply with the conflicts' rules? I know it's true at the county level, I assumed it was true at the state level. But if it were truly a cognizable conflict of interest that violates the Oregon Rules of Professional Conduct, that the state couldn't be on the other side in such a case, and wouldn't the state then or our agency hire some outsider? And if that is true, as I suspect, why don't we just write that up and then cite that language in response to a concern about conflicts of interest?

Ken Sanchagrin: I think that, yes, that is correct. I think the concern that we've had internally with rewriting the current Exhibit F, as I mentioned, I think that all of these things are exactly what we should no matter what be incorporating into, after consulting with DOJ to make sure the language is correct, for our '25-'27 contracts. I think part of what we're worried about right now is making sure that

we can have equity amongst our contractors. We already have the vast majority back in, and to have to re-undertake this entire effort in a short period of time would be a major challenge. I know that we're reaching out to DOJ on some of these issues. That has been our plan after following last night, but I think that just in the timing for just this specific slice of time, that's been the main concern amongst staff. Certainly based on the discussion that we have here today, we have a meeting tomorrow amongst staff to talk about what are our next steps. And so, that's why we're wanting to raise this with you all to see what guidance you could give us.

Chair Jennifer Nash: Commissioner Harris?

Rob Harris: Thanks. I think it would be helpful for me to give you an example of where this might apply. Does it apply to a post-conviction relief case? Does it apply to a PCR case? Or a habeas case? Does it apply to only a legal malpractice case? What are we talking about here? And also, has this Schedule F language been run by the PLF? So, something happens, and the PLF says, "Oh, don't worry, we got you. You got your coverage. We'll go ahead and cut a check to DOJ for their \$285-an-hour lawyers." Can you give me an example, Ken, about how this would play out, and what kind of a case it would be?

Ken Sanchagrin: I will admit, Commissioner Harris, that as far as hypothetical examples, I would not be able to at this moment as far as, yeah, that would be a little bit difficult for me. I have not spoken directly with our DOJ attorneys about this, and so yeah, I've not game planned that myself out.

Rob Harris: Because my response to this would be until PLF says, "Yes, your PLF coverage will cover issues in this indemnity clause." As long as they fall within your general policy, obviously, if you break the law or something, you may be outside the PLF, regardless of who it is. But until that happens, I wouldn't sign this.

[Crosstalk 01:26:52]

Rob Harris: ...I wouldn't vote.

Chair Jennifer Nash: ...it doesn't.

Rob Harris: Yeah, and I wouldn't vote to require Schedule F as a condition of extension of these contracts. And the fact that we're at a late date is not your fault. I understand that, Mr. Director, but it is still a problem for the providers, and I just don't see how I could ever approve this language.

Chair Jennifer Nash: Well, that brings me to my next questions, which I think we need to know. And this is difficult because this would be... I feel like the commission's being asked

to do something that we don't have any good legal advice about what the ramifications are. So, what happens if we say nobody needs to sign this and you get a contract extension? What are the implications of that if we're not in alignment with the executive branch requirements for contracting? So, what are the ramifications if that's the case?

Ken Sanchagrin: The DOJ would not approve our contracts as being legally sufficient. And so...

Chair Jennifer Nash: Well, I mean, like between now and September 30th, it's just a contract extension. So, what happens?

Ken Sanchagrin: Then the contract extension would not be deemed legally sufficient.

Chair Jennifer Nash: Okay.

Ken Sanchagrin: And the advice the DOJ would give to me as the signatory for the agency would be to not sign that contract.

Chair Jennifer Nash: And if we require... Yeah, I am really super uncomfortable with this because if we require providers to sign this, and then we, "Oh, it'll be okay," and then something isn't okay, and some big thing happens, and DOJ comes after a provider because there's this indemnification, that's not... I don't think that's something that we want to be on the hook for because I think that makes us potentially personally liable too. So, I mean, one of the things we could do, we have till June 30th, one of the things we can do is have the commission seek outside legal counsel since DOJ is saying this... I don't know.

Ken Sanchagrin: I would add that we have not had, or well, when I say "we," to my knowledge, and certainly since last night, clearly, we've not had additional DOJ feedback on whether there is some flexibility on any of these terms. And so, I think that it could be fruitful certainly to reach out to them and to see. As I've noodled on this overnight, the other solution that I have thought of, but I have to admit I've not run it by staff, so I might be putting staff in an uncomfortable position by saying it now, is that we do need this so that the exten...or we need some version of this so that the extensions can be signed, given that, as you just pointed out, the extensions would not need to necessarily be signed until a bit closer to the end of the biennium. Perhaps we could seek clarifying language for this exhibit that could then be incorporated into the extension that's signed.

I think the other issue that we've faced that may be a little bit more time sensitive is that, in the same way that we would not be able to say that an extension passed legal sufficiency without language relating to the public contracting code, at this point we could not process any amendments to our contracts for the same reason, unless the Exhibit F has been signed. And so, it

may also come down to whether and to what extent the folks who have not signed yet require extensions. And I will admit I do not know how many of those 20-odd folks, excuse me, require amendments. I'm not sure how many of those 20-odd folks have been pursuing amendments prior to the Exhibit F issue.

Chair Jennifer Nash: And by amendments, do you mean qualification increases?

Ken Sanchagrin: Yeah, the more standard amendments that we would think of. Qualification increases, FTE changes.

Chair Jennifer Nash: Well, I think, I mean, that's a different issue that we can take up, but that may be something that the commission wants to take up from a budgetary standpoint too, is whether or not we have the sufficient funds to do up-qualifications at this time between now and the end of the biennium, or now and the end of the contract extensions, because we have already heard information that we are in a budget hole. And we may not have the legal authority to do that because we have, well, not this commission, but when I was on the last commission, I asked for a legal opinion and got a legal opinion that said that we're not allowed to deficit spend, it's unconstitutional, and if we do, we're potentially individually liable. So, I'm not really interested in being individually liable for the agency deficit spending. [Laughter] So, it may be that issue has not been publicly noticed for a meeting today, but it may be that we just need to not do any amendments until we have the money to do that.

Ken Sanchagrin: And certainly our goal as we move into contract extension, but then also normally as we go toward biennium close, is at some point we do need to cut off contract extensions or, excuse me, contract amendments anyway. So, I mean, my hope is that we don't have too many of those pending, but I'm honestly not sure if we had some for those folks who had not signed Exhibit F that were pending prior to these discussions.

Chair Jennifer Nash: Also, I think one of the things that we need to figure out, I remember Director Kampfe telling us that if we extended contracts, we could make no amendments. That a contract extension was a contract extension and we wouldn't be permitted – and that may not be, I may be misremembering – but we wouldn't be permitted to make amendments to the contracts. They'd have to stand as they were during the extension period.

Ken Sanchagrin: And I'll have to get guidance on that. And maybe when I say doing it is one thing, maybe they still are a modified Exhibit F that could accompany that amendment, but still they could happen simultaneously was more what I was suggesting as opposed to it being incorporated into the amendment itself. Like you were pointing out, from a timing perspective, I mean, it is mid-May, late in the game, but we're also not at the end of the biennium yet.

Chair Jennifer Nash: Well, I think it's also possible, we have a work session that's scheduled. We could publicly notice part of that for a commission meeting to make decisions that we need to make about contract extensions during that meeting also. So, I think that's possible too. Commissioner Lipscomb?

Paul Lipscomb: So, from time to time after I resigned from the bench and went back into private practice doing mediations and arbitrations, I'd be asked to do a mediation that involved the State of Oregon as a party. And the attorney general's office always without exception asked me to sign an indemnity agreement that looked a lot like item 11 that we're looking at here, and I always refused, and the attorney general's office always backed down.

Chair Jennifer Nash: Helpful information. Thank you. Commissioner Harris, you're muted.

Rob Harris: There we go. Sorry. I feel like I need more information, honestly. Like I'd be a no right now on this. But I'd sort of like to understand what the lawyers who are concerned about this more specifically, like what the conditions or the circumstance of the concern. I'd like to understand when they would be receiving a bill from DOJ for defending what kind of cases. I'd like to understand from PLF why they wouldn't cover this. Those are all questions I don't have the answers to right now. I don't like this language because I think it opens the door way too much. If you want to extend this, you could actually also do another paragraph, whatever, 17 of this, that says to the extent that the indemnity clause requires a provider to get more insurance, that cost will be passed on to the state, and their contract goes up by that amount. Blows your contract out of the water and your budget. But this is a big risk that they're taking without potentially understanding the circumstances under which it would come and whether or not the PLF is going to cover. There just seems to be a lot of lack of information here, and I'm disappointed we don't have a PLF representative here maybe, or maybe at our work session could explain this to us.

Chair Jennifer Nash: I'm going to look at that email from the PLF, but the big issue is that your professional liability insurance covers your representation with your client. And what this would cover is someone else's acts and omissions. I mean, just from that perspective, I can't see how it is that the PLF would ever agree. And I know I've seen that email that's been sent where they say why they won't cover it. And it basically says that, is we're not going to cover someone else's acts and omissions, it's not related to your representation of your client.

Rob Harris: Makes perfectly good sense.

Chair Jennifer Nash: I agree with Commissioner Harris regarding what my position would be at this point regarding this, I would be a no. I have some significant concerns about it

as well. So, I think it makes sense to get more information. And context matters, of course, because as Commissioner Harris has said, I'm having a really hard time imagining when this would come up, the context in which it would come up. And I think if we understood that, we might be able to understand the concerns more broadly and be able to address them. But as it stands right now, I don't feel comfortable requiring providers to sign this the way it's written. And I also certainly don't want to be in a position where come July 1st, we don't have any providers for 20 lawyers' caseloads. Or 20 providers. So, it would be much more significant than lawyers, 20 providers' caseloads and have to find new lawyers. And I understand that this is especially prevalent in the juvenile providers' standpoint. So, it would be really problematic to find lawyers to take over all of those cases.

Ken Sanchagrin: And I appreciate that, Chair. I do want to just make sure, I do believe that as staff, we would like to have at least the direction as to whether we should pursue the contract extension or not. This is inextricably linked to it, I understand that, but without... When we say like we're not willing to vote for it today, the motion that I was trying to get presented was that we can then have leave to work on this. And so, I just wanted to make sure that was clear to all commissioners that I'm not asking for you all to bless Exhibit F. I just need the direction.

Chair Jennifer Nash: I think that's what we were all talking about at this point is just Exhibit F. We had not yet pivoted over to the contract extensions.

Ken Sanchagrin: I just wanted to make sure that we weren't putting it to bed. [Laughter]

Chair Jennifer Nash: No, no, no. It's just Exhibit F that I think we have the concerns. And do you have enough direction from us to know what questions we want answered or do you need some more specificity about that?

Ken Sanchagrin: No, I believe I have good direction on what you all would like to see at your next work session. And then we'll work with the timeline backward from that to try to get some clarification from DOJ. We'll see if we can get the PLF to either weigh in or to appear at that as well for part of the discussion.

Chair Jennifer Nash: That sounds great. Okay. So, contract extensions, I see that Commissioner Harvey has said that he needs to leave. Let me do a quick count. One, two, three, four, five, six. Okay. You can leave. We have a quorum. All right. Take care. Thank you. Okay. So, we don't know how much money we have from the Legislature yet. That's the biggest issue. We are still working through, as Director Sanchagrin said, the extension, or I'm sorry, outreach to providers to get feedback there. We don't have the review back completely from DOJ regarding legal sufficiency, including Exhibit F. And so, it just makes sense, I

think, from our perspective to extend contracts for 90 days to the end of September. I'm interested if other commissioners have questions or comments or concerns about contract extension. Commissioner Mandiberg?

Susan Mandiberg: I agree with contract extensions once we can get everything all sorted out. I'm just wondering whether an extension to the end of September is enough. One of the things that Ken mentioned in the materials was that part of the reason we need time is for contractors to go over the terms and discuss them and deal with any issues that might come up in addition to the ones that have already come up. So, I'm wondering whether an extension to the end of September is really enough of an extension.

Chair Jennifer Nash: Well, let me ask that question, and I don't know the answer to this. We're going to be in Bend in June where there will be a lot of providers that are present. Is there any way to have a draft of the contracts, not in terms of money because we won't know that yet, but in terms of the contract changes that we're going to be looking at, at least so that we can receive some initial feedback and public comment and some initial just general comment by June? Or is that pushing things?

Ken Sanchagrin: I'd like to believe that we can have that by June. We had already been planning to schedule several more of the virtual office hours as well. And so, I think if we combine those together, that would be a good approach. I do want to just address real quickly Vice Chair Mandiberg's question about an extension. I think that if we could, we probably would try to take a little bit more time, but the Department of Justice would not permit us any longer than to September 30th. Or they would not sign off on any longer than that.

Chair Jennifer Nash: Commissioner Harris.

Rob Harris: Thanks. A couple of clarification questions for you, Chair. So, the motion, would it be to direct the agency to engage in negotiations for an extension? Or would it be to authorize an extension, but not necessarily authorize Schedule F as written? Or would it be to authorize them to go forward and require people to do Schedule F after DOJ weighs in? Or what exactly are we voting on here? That's number one.

Chair Jennifer Nash: Thank you. I think, well, I would ask for a motion to approve extending the current contracts, current '23-'25 provider contracts, until September 30th without the Exhibit F. And we can take up the Exhibit F. Can we do that, Ken? Take up the Exhibit F? Can we approve the extensions without the Exhibit F?

Ken Sanchagrin: Sorry, my unmute button was being funny. Really the guidance that I would need today, and so we could make the motion accordingly, is just to even



authorize staff to pursue the extension for three months. And so, then I think to me that would then include beginning to work on what we can do around Exhibit F.

Chair Jennifer Nash: So, the straight language would be just approve extending the provider contracts until September 30th.

Ken Sanchagrin: That would be the motion that I would need today is so that we can have that direction to us, to myself and staff, so that we can begin working on this. Okay.

Rob Harris: And then the second quick question I have is in the past when we've done this, we've made sure that any bump in compensation was retroactive July 1. I'm assuming that would be the case as well.

Chair Jennifer Nash: We can't do that, I don't think. Go ahead, Ken.

Rob Harris: Well, I mean, no, if the contract gets negotiated and turns out they've legislated enough money to bump that up 3% or whatever, normally that gets retroactive back to July 1. Is that pending or is that TBD? I mean, we can't require that, obviously, but that's the normal course. Maybe I'm ahead of myself there. That's going to be a matter for subject negotiations in the future. So, I think I'm prepared to make a motion that we authorize the agency to engage an extension of the current contract, this does not necessarily approve the current schedule F language, but to have them engage the providers to enter into an extension agreement.

Chair Jennifer Nash: So, the motion, I would need a motion to approve extending current '23-'25 provider contracts until September 30th, 2025.

Rob Harris: I just want to make sure that it does not mean that this body has approved the language of Schedule F.

Chair Jennifer Nash: That's not the motion, but we can have further discussion, and we can amend the motion if we...

Rob Harris: Well, that's my motion, but if someone wants to make a different one.

Chair Jennifer Nash: Okay, okay, fair enough. So, I think the motion is, let me rephrase, the motion is to approve extending current '23-'25 provider contracts until September 30th, 2025, without requiring contractors at this time to sign Schedule F.

Rob Harris: Right. We may do that in the future at our next meeting.

Chair Jennifer Nash: Okay.

Rob Harris: But that allows the agency to start this process with DOJ and the providers to see if they can wrinkle out these last few wrinkles.

Chair Jennifer Nash: Is there a second for that motion? Judge Lipscomb seconds that motion. All right. Mara, we need a vote.

Mara Hoaglin: Okay. Commissioner Nash?

Chair Jennifer Nash: Can you call me at the end?

Mara Hoaglin: Yes. Commissioner Mandiberg?

Susan Mandiberg: We're clear that we're not approving making people sign Exhibit F, right? In that case, yes.

Mara Hoaglin: Commissioner Lipscomb?

Paul Lipscomb: Yes.

Mara Hoaglin: Commissioner Buckley?

Peter Buckley: Yes.

Mara Hoaglin: Commissioner Harris?

Rob Harris: Yes.

Mara Hoaglin: Commissioner Lininger?

Tom Lininger: Yes.

Mara Hoaglin: And Chair Nash?

Chair Jennifer Nash: Yes.

Mara Hoaglin: Okay. Thank you.

Chair Jennifer Nash: All right. And then we may, at some point very soon, require providers to sign Exhibit F. And it may be that at our next meeting – which is in a week by the way, I got a calendar notice for that, it's the 29th, our workgroup – we may publicly notice that as a commission meeting to take up this one issue and then the remainder would be a workgroup. So, if we could get the feedback on

Schedule F immediately, that would be great so that we can get that taken care of for the agency as well.

Ken Sanchagrin: We'll jump on that right away.

Chair Jennifer Nash: Okay. Wonderful. All right. We have a break scheduled in about 15 minutes. Let's go ahead and get started on and maybe, at least, we'll start on the discussion regarding the next item, which is the commission's response to the governor's letter of expectations. And to be clear, that letter of expectations was to the executive director.

Ken Sanchagrin: And I'm sorry, Chair, since you were named as the...

[Crosstalk 01:48:22]

Chair Jennifer Nash: Oh, I'm the... Okay. I thought you pulled your screen up. So, I thought you were going to start talking. Sorry about that. All right. So, when we had our new interim director appointed, a letter of expectation was sent to him that has been included in our packet of materials regarding what the governor's expectations are for the unrepresented crisis situation in the state. From workgroup discussions that we've had and further refinement with community partners and meetings that I've had with the director, that was developed into the framework of item that's being presented to the commission. I will say this is a framework. I didn't think it would be useful based on other experiences that the commission's had to have a draft of a letter to approve because it may be that we change things, or we don't like something, or we add something. And then these drafts of documents end up being gospel that gets published to various entities as something that we've done when we haven't done. So, it seemed like it made more sense to have a framework and then let the director write his own letter based on the framework.

But this framework, that being said, this framework is pretty specific in terms of the things that we've talked about and why we think these might be helpful. And I wanted to open this up and talk about them and have some discussion and give the director some direction so that he can write a letter to the governor with our blessing. So, with that, I can run through the letter, the framework, if you think that would be useful. And Commissioner Buckley's nodding yes. So, okay. So, do you have that pulled up, Ken? Do you want to screen share?

Ken Sanchagrin: I do. I'll share it right now.

[No dialogue]

Ken Sanchagrin: Apologies. I'm just trying to make sure I've got the right one to share. I'm just going to share that full screen. I'll zoom in as well. Is that a good size for everyone?

Chair Jennifer Nash: Maybe one more click. Yeah. That's good. Okay. The first one, [Inaudible 01:51:29] broken down into three areas – short term, which is implemented in the next contract cycle, longer term, and then kind of immediate. So, short term, we've talked about on the commission level for a few months now, some sort of contract flexibility to allow... Right now, what we have is a situation where contractors can, on an hourly basis, take cases above their MAC on an individual basis if they want to be able to do that. We know that there hasn't been a really good way to monitor how many cases are being taken. A lawyer just has to say, "Yes, I'm okay. I can do it." A preliminary review of some of the data shows that there are some lawyers who are taking way more cases than they should be under that model. It's also very expensive and it excludes nonprofit public defenders because nonprofit public defender lawyers can't take cases on an hourly basis. So, there are some nonprofit public defender lawyers that would like to take more cases and can't.

So, this is not a situation where the commission would be saying everyone needs to pitch in and take more cases. But what we've heard consistently from a lot of providers is, "Hey, I have time. I have the experience, and I want to be able to take more cases." So, that's what this proposal is for – to take more cases and be compensated for those cases. Right now, the way the contracts read is that there's a 15% variance. So, you can take 110, 105, 114 percent of your caseload and you're paid the same amount. This proposal really talks about if you're taking over a 100% of your cases, then you would be compensated for taking more cases. And it doesn't require it. That's the other thing that's really important. Does it require you to take more cases? It also only will limit... This program will be limited only to people who are experienced lawyers, and the agency will work on the rules to present to the commission about who's eligible to take these kinds of cases. But that's what this this provision is for, to address those lawyers who wish to take more cases and be compensated for those up to a maximum of 115%, including some very robust monitoring to ensure that people are not exceeding that amount. So, Commissioner Mandiberg, you first.

Susan Mandiberg: Thank you. It wasn't clear to me whether this paragraph included a way to get public nonprofits able to take advantage of this for the lawyers within the nonprofit who are eligible. So, when I first read this, it was clear to me that it dealt with consortia or hourly lawyers. It was not clear to me that it included nonprofit lawyers.

Chair Jennifer Nash: It's contract lawyers, not hourly lawyers. So, any provider that has a contract, which would include nonprofit public defenders, to facilitate appointment and

compensation of sufficiently experienced attorneys with ethical capacity. So, yes, it would include nonprofit, and I am sure that in the letter to the governor that can be explicitly laid out to include that we're including nonprofit public defense.

Susan Mandiberg: I think it would be good if that was made explicit in the letter. Yeah. Thank you.

Chair Jennifer Nash: Yeah. Commissioner Buckley.

Peter Buckley: Just a question on funding. Is this in a POP right now? Do we have a price tag for it?

Chair Jennifer Nash: We don't have a price tag for it because we don't have a budget yet. The Legislature hasn't set the contract rate yet, but this provision was actually requested by a lot of people, but the Legislature's one of them. They wanted some flexibility in contracts to be able to allow contractors to take more cases. And yes, so it will be funded. At what level, again, we don't know because we don't know what the contract rate's going to be, but yes, we would not, in all of... I guess I should put another. These are things we're suggesting. Obviously, many of these are going to be subject to funding. We're not saying we're going to be able to do these things. These are ideas we're presenting to the governor of ways we believe will be helpful to ease the crisis. Whether or not there's a decision that's made to fund those is a separate decision.

Ken Sanchagrin: Chair, can I jump in for just a moment?

Chair Jennifer Nash: Yes, please.

Ken Sanchagrin: I apologize. With my screen shared, I can't find my raise hand function. So, I apologize for interrupting. My hope as well is that if we're able to make this change is that by making it on the front end and by trying to have some of this work done through the contracts is that ideally, I would like to solicit on the front end. What do folks think that they can do within that 15% variance? If you want to be at 100%, you can tell us. If you think you can do about 105 based on your prior workload, then tell us upfront. And then we can also try to square that with the budget that we have. And so, we may not be able to allow everybody to go as high as they believe they can, given what the budget may be, but we can also try to right-size that, especially with a focus on the crisis counties, when we're doing the contract rollout at the end of September. And so, hopefully, we can be a little more forward-looking as opposed to kind of right now, I think as we even saw in the budget updates, we're a little bit more reactive [Inaudible 01:57:36] proactive.

[Crosstalk 01:57:39]

Chair Jennifer Nash: ...implementation issues that we're going to have to think about, like what are we going to measure this? Like when's the measurement? Is it at the end of the contract? Is it every month? So, there are things that the agency will need to work out regarding operation and implementation. This is just the broad concepts that we're talking about for the governor letter.

Peter Buckley: Well, this is my concern is that we have the request due, by June 1st, say, when is the crisis going to end? And yet we need to be able to say, "It will end if the following happens." So, we're in this kind of limbo here. And this idea has been talked about, I think it's a really good idea to pursue, I just don't see how we can present it as on a timeline. I don't know how we say, "If we fund this at this level and this many attorneys take the 115%, it will cost this much, and it'll take this many cases off of the list." I've just not seen that kind of detail that I think the governor is saying that's what she needs to see.

Chair Jennifer Nash: I think that's a really good point. And I think that needs to be laid out in the very first paragraph about the limitations and the contingencies and that we can't... We can give you the levers to pull to resolve the crisis, but we can't give you... It isn't even funding, right? It's resources. So, it's because it's not just money. Without being fully resourced, there isn't going to be a date. And she's not asking for a date, but she she's asking for a timeline, but I think that's also difficult without knowing what all those resources are. And we've heard some of that already today. I mean, regarding systemic changes that would be helpful that are completely outside of our control but are in this letter. Okay. Any other questions about the contract, increasing contract MAC for people that would like to do that? Okay. Any concerns about that? Okay. All right. All right. Next item. Okay.

Next few items are pretty straightforward, expand data collection and analysis regarding the representation being provided so that we can better understand, assess, and communicate the quality of public defense work. And that's really making sure that we know how many lawyers are taking how many cases, how many lawyers there are in the system, what lawyers are assigned to what cases, how many hours are being spent on cases. One of the things that we've talked about requiring is that anyone who wants to take cases over the 100% is going to have to do some timekeeping, at least at a very basic level, so that we have the metrics to measure quality and to ensure that the representation that people are receiving is the representation that we expect they receive. So, that's really what that bullet point is designed to talk about. Any questions, concerns about that discussion? Okay. Well, I'll get through this biennium, and then we'll take a break. The next one is implement the contract adjustments that we've already approved, which we don't really need to discuss further. We approved those at our last meeting, and they'll be fully flushed out in the letter to explain

in similar format to this, what changes were made and how it is that we expect those will impact the system in a positive way in order to address the crisis.

And then number four is something that we've heard a couple of different times from nonprofit providers, which is to try to implement some contract adjustments for those offices that allow them to hire in groups of lawyers instead of just piecemeal. They like to do that. It's efficient for training and supervision and retention. There's data that shows that the more lawyers that come in at the same time, the more likely they are to stay because they're part of a cohort and they just stay longer. And right now, the way our contracts are structured, there isn't really that kind of guarantee, I suppose, or predictability. Because, of course, now in the fall of 2025, or even in the summer of 2025, offers would like to be extended for the summer of 2026. So, we need to try to provide some flexibility to public defender offices to be able to do that. So, that's what that bullet point talks about. Questions or concerns about that? Okay.

And then the last one – develop policies and procedures to ensure that OPDC is closely monitoring contract compliance, and we've talked about this before. This is really the... And do remediation with contractors that aren't. This is really the, all right, we have County X, we're getting data that County X over a consistent period of time, or even on a short-term basis, is at 60% of MAC, at 80% of MAC, whatever the number is, picking up the phone and calling and saying, "What's going on in your county? Can you tell me what's happening? Why are your contract numbers low? If they are, what are we going to do about it? We talked about this in detail in our April meeting. So, that's just implementing that strategy into this letter. Any questions or concerns about that? Okay. All right. With that, it's 11:05. Let's take a quick break and then we can address the other items. Let's take a break, a 10-minute break. So, let's be back at 11:15.

[No dialogue]

Chair Jennifer Nash: It's 11:15. As soon as I have a quorum of commissioners, we can get started.

[No dialogue]

Chair Jennifer Nash: All right. Thank you. All right. Moving on. Oh.

Ken Sanchagrin: I'm going to reshare. Yeah.

Chair Jennifer Nash: While Ken is getting ready to screen share, the next goals are short-term goals to be implemented in the next six months. And the first one is to continue to develop and support the law clinics at the law schools, which will help recruit and retain public defenders into the workforce and also in the counties where

there are law schools. That is something that last biennium was funded not through our agency. We did request funding for the law school clinics in our requested budget. There is discussion about how to continue to fund those, and I think that they're a vital and important component and should be included in our plan. And I know Commissioners Buckley and Lininger will wholeheartedly agree. Are there any questions or discussion about or concerns about those? Anybody want to make a pitch about how important the law school clinics are while we have the opportunity? [Laughter] Go ahead, Commissioner Lininger.

Tom Lininger: I think right now, a career in public defense is somewhat daunting for students for a lot of reasons. It appears to be very difficult. It appears not to be sufficiently lucrative to pay off student loans. And it just seems like a gamble in many respects. There's a lot of energy among our students. Our students are more concerned about social justice issues than at any time I've seen over the last quarter century. But I think we need that entry. And so, I think in subsidizing clinics, we're actually making a really valuable long-term investment. Not only is there short-term payoff in a county like Lane County where there's direct representation of clients who otherwise might lack counsel, but in the long run, you're incentivizing participation in the public defender workforce, and that's hugely valuable. Thank you.

Chair Jennifer Nash: Thank you, Commissioner Mandiberg.

Susan Mandiberg: I agree with everything Commissioner Lininger said. I think the other advantage to funding the clinic is, although I'm three years away from having been at the law school, I know that students who are interested in public defense are interested in it, despite the daunting nature of everything that Commissioner Lininger pointed out. And they will find public defender jobs somewhere. If we support the clinics, they will have ties to public defenders in Oregon, and those ties are likely to encourage loyalty to public defense in Oregon. They'll be familiar with the players, they'll be familiar with the system, and they're less likely to look for those jobs in some other state, for example, Washington, where public defenders are often these days treated better and paid more. So, supporting the clinics, I think, will also support ties to Oregon as opposed to ties to public defense generally.

Chair Jennifer Nash: Point very well taken. Thank you. Okay, so the next item on the short term is to collaborate with system partners to organize and expand the use of alternative resolution dockets in crisis counties. And to the extent that they're able to dispose of cases quickly, or numerous cases at a single point in time, they'll lead to reductions in the number of unrepresented defendants. We've talked about this before. I think the commission is fully in support of this. And I wonder if... I know we're specifically talking about alternative resolution dockets, but I wonder if we also want to talk about supporting like the implementation of



deflection dockets or other... I guess that counts as alternative resolution, but I don't want to make it so broad that we lose the... I guess what I'm saying is I'd like to make it specific so that it has some teeth to it, if that makes sense. Commissioner Buckley, go ahead.

Peter Buckley: Is this where we might want to add something around mandated settlement conferences?

Chair Jennifer Nash: I think that's in number nine under longer-term goals.

Peter Buckley: Great, thanks.

Chair Jennifer Nash: But yes, that's definitely in there. Other questions or concerns? Okay. Okay. Let's move on to the long-term goals. And by long term, we don't mean forever. We just need mean in this biennium that's coming up. So, the first one is to, of course, we agree to support the continued careful and thoughtful expansion of the Trial Division while providing geographic flexibility for case appointments where necessary, when and where necessary. And you may recall that right now, the way the statute's written in Senate Bill 337, two of our State Trial defender offices are geographically restricted. And so, we are hoping to get whatever... I think those were done by budget note, if I recall. So, it's not in 337, to maybe make those budget notes go away, to have the Trial Division look more like what we originally had a concept for, which is kind of a strike division.

They could go like in Union County, right, where we're starting to see this unrepresented problem pop up, maybe we could resolve it really quickly by deploying a couple, one, one public defender, trial-level public defender there to resolve those cases temporarily until a contract lawyer can get recruited or whatever. In other words, to have more flexibility. So that the Trial Division can be used more nimbly than it is right now. We're starting, now that it's fully operational, I think we all know we're starting to see some real positive results in the counties where there are State Trial Division. Especially in Jackson County, where the numbers are really dropping because that office is now fully staffed and is much more involved in the system and coming up with resolutions for how to deal with the issues there. Any questions or concerns or thoughts about that? Okay. Next one is, and this is the very broad brush, take a leadership role in convening and facilitating discussions with partners to develop strategies to address systemic issues contributing to the unrepresented crisis. This was really the idea of what you were talking about, Commissioner Buckley, which is are there systemic changes that can be made that would help?

So, what we've heard from courts is mandatory, and we can call it judicial intervention or settlement conferences or whatever, but mandatory settlement conferences for sure would be very helpful. And we're hearing really from

everyone. Well, from lots of system players that that would be very helpful. But the other one would be ensuring access, that lawyers can have access to their clients in a timely manner. The development or changing of dockets to maximize public defender time so that you don't have 5 or 6 or 10 lawyers sitting around waiting all day for cases to be called. However each court wants to do that, but can you look at your own system and figure out a way to change your docket so that you can maximize lawyer time? Is there a way to work with prosecutors to look at cases that may be appropriate to reduce to misdemeanor or, I'm sorry, from misdemeanors to violations or to change those charging practices up front. And we know that some counties are extremely resistant to that, and we know that ODAA statewide every single opportunity they have in every single possible public forum has said, "We're not going to change our charging practices. So, don't ask us to do that."

But I also know that we've heard from a lot of local DA's offices that they are in fact willing to do that, and they have done that. And that's especially true in counties where there are shortfalls in the DA's offices. I mean, if you can't hire prosecutors, you're going to have to do the same thing that we're doing in public defense, which is try to look at cases and see if you can figure out some alternative for a resolution. So, I think all of those things specifically should be included as specific items in the letter. Are there other things that we can think of that we want included that we've heard presented to us? Commissioner Lipscomb.

Paul Lipscomb: Yes. I would like to see in this paragraph that we spell out who those other partners are, at least in part, to include the judiciary and the prosecutors.

Chair Jennifer Nash: And the sheriff's department.

Paul Lipscomb: Yeah.

Chair Jennifer Nash: Because they're in charge of corrections.

Paul Lipscomb: Yes.

Chair Jennifer Nash: Yeah.

Paul Lipscomb: Name them, name them.

Chair Jennifer Nash: Agreed. Commissioner Buckley.

Peter Buckley: Yeah, I agree. We need to spell that out as much as possible. We need to emphasize that we'll prioritize the crisis counties. It seems like it's a given, but I think we should say that, very clearly prioritizing. And then I think we need to

list out, including things such as access to clients, scheduling the public defender time, mandatory settlement conferences, etc. We need to spell those things out.

Chair Jennifer Nash: Well, and I mean, what we've heard only in passing, but may be worth putting in the letter is developing rules around providing discovery in a timely manner because that certainly slows things down, and we've heard that from presenters.

Peter Buckley: Yep.

Chair Jennifer Nash: Other comments, questions, things that we think should be under this bullet point? I mean, I think one of the things that we need to draw out in this as part of the narrative is that, and I know we've done this in other settings, but if we can't create more public defenders, then we have to start looking at the demand side. We can only do so much with the supply side, and I think we need to draw that out more to talk about... I do want to acknowledge and recognize that there is a perception on the part of some system partners that what we're really saying is that we want decriminalization. I've heard that recently, and I was kind of surprised by that because this commission hasn't talked about decriminalization in a very long time, and only really in passing.

Putting aside whether or not we think that's a good idea, we don't have any control over that, but what we have been talking about are effects on the system that couldn't make a difference. And one of them, the reduction of misdemeanors to violations, it's still holding people accountable. It's just doing it without involving a public defender. So, we're not saying no accountability, we're saying accountability, just like the Legislature develop the deflection program. In part, developing that program, in part, you're trying to balance wanting to have some accountability for drug offenses, but also did not want to burden the criminal justice system and particularly public defense with having to provide public defender lawyers for all of those cases. So, they develop this deflection program. And that is the kinds of things that we're talking about here is what kinds of programs can we develop that reduce the demand on public defense, not don't hold people accountable. That's not what we're saying. And I think it's important in this letter to say that as well. We're not talking about eliminating accountability, we're talking about reducing demand on the system. All right.

And then number 10, which is to promote hourly rates that provide adequate incentives to motivate private bar attorneys and investigators to fill gaps to address the unrepresented crisis because we know that current capacity for contractors cannot and likely never will be able to meet the demand. And so, we're in this situation now where we have the THIP program, which is going to go away, the Legislature's not going to fund that. We know that. We didn't ask

for it to be funded past June 30. They're not going to fund it. Okay, so then what? I mean, we made a decision as a commission to have THIP go by the wayside, but to stabilize the hourly rates in our POP 104, so that we would continue to provide an incentive for private bar lawyers to take public defense cases, and I have a very significant concern.

We have no idea what the hourly rates are going to be, what that's going to be funded at, it's set by the Legislature. I have a pretty big concern that if those hourly rates are decreased and decreased significantly, we're not going to be able to get private bar lawyers to take those cases. That's what was happening before THIP. That's why we had THIP. So, I think it's really important that we have this in our letter and talk about what will happen if we don't have access to private bar lawyers. Because those are the lawyers that have the most flexibility in the counties where we have the crisis to take cases that we can't get covered by contract. And the other place as a commission that we've heard about where those are really helpful is the Betschart releases. If you have a county that has three contractors, and none of them have capacity, and you've got someone sitting in jail who's going to be released if there isn't a lawyer, you're going to have to call a private bar lawyer. And if you're going to say, "Hey, will you take this case at \$165 an hour or \$130 an hour?" It's going to be a lot harder to get a lawyer to take that case than at the rates that we're paying now. So, anyone have any questions or concerns? Commissioner Buckley?

Peter Buckley: Huge concerns. I mean, since we don't know what the hourly rate is going to be, and if it's significantly lower than the Temporary Hourly Increase Program, that could be another really negative shock to the system. And I think we need to spell that out in the letter, we have to point that out saying, "Look." What can we do about it? I don't know, other than encourage the Legislature to have a plan, or encourage the governor have a plan of how to respond if the hourly rate is significantly lower than the Temporary Hourly Increase Program.

Chair Jennifer Nash: Yeah, I mean, the governor's budget included fully funding POP 104, but then some of that money, everybody knows how that works. It got reallocated. Nothing done. Some of it got reallocated here, reallocated there. And at this point, have no idea what it's going to look like and no idea what our... Maybe the commission's going to have to make some decisions along the way if it turns out that we're funded for an hourly rate that's woefully inadequate for our need, we're going to have to... I mean, the commission in '23 when this crisis first started was faced with that decision, and I know we created THIP. And I know there are...

I mean, this is the one area, strangely enough, where we have DA support. I mean, we have prosecutors who are testifying at the Legislature who say, "Pay lawyers what it takes to take these cases. You have to be able to pay them an

adequate hourly rate so that we can get these cases covered." DA Barton has said that several times in front of various different legislative committees, and I think that we need to partner with the people who are willing to support us when we have the opportunity to do that. So, I'd like to have something in the letter that says there's widespread support for this across system partners. I mean, I know judges feel the same way. There were some judges in Marion County who were signing court orders paying lawyers \$400 an hour for public defense cases until we said, "You can't do that anymore."

So, the bench supports this, prosecutors support this. I've expressed my concerns directly to the governor's office about the hourly rate, if it's decreased. So, the difficulty is we don't have data. We may end up in a position where we have data, unfortunately, but we don't have data now to prove the negative, right? So, how many cases do you think we'll lose if the hourly rate goes down? I don't know. All we can do is say how many more cases we have since the hourly rate goes up, but that correlation doesn't equal causation, but we may figure that out if the hourly rate's reduced and the ability to appoint hourly attorneys drops. So, Commissioner Mandiberg.

Susan Mandiberg:

Well, two things, just reacting to the last thing you said, if there's a way to calculate a percentage of existing cases over the last, say, six months that were covered by THIP or hourly lawyers in general, we could project it as a percentage. If we said that the numbers of cases are projected to be X, then we could predict what percentage of those cases might need hourly lawyers. Something. I'm not a statistician, but Ken is. [Laughter] So, if there was some way to do that kind of a projection, we could, I think. The other thing I was going to say was that I'm wondering, since this is such a crucial area, especially with Betschart cases, but in general, whether having it as item 10 minimizes its importance, and whether it should be moved up to one of the first five items. Because I suspect that someone reading the letter in the governor's office or the governor would think that the things that we're mentioning first, even though we're saying they're things we can deal with in the short term, would think that those have higher importance.

And in addition, advocating for enough money for hourly lawyers is something that has to be done in the short term. And if we want the governor to be advocating for that, she needs to do that in the short term. This letter goes to her June 1st, the legislative session may or may not be completely over, shouldn't be over by June 1st, I shouldn't think. I'm not up on the calendar for that, you can correct me if I'm wrong. But to the extent that her office can advocate for that sooner rather than later, I think that would be important.

Chair Jennifer Nash:

Yeah, that's a good point, to bump it up. And I don't like that it's in long term because it's actually currently before the Legislature, but it's kind of this weird...

Here's, I'm speaking a little... No, I'm not going to do that. Never mind. I was going to say something that I know if our Legislative Fiscal Officer's listening, he'd have a heart attack. So, I'll just wait. [Laughter] But we may be in a position where we have to revisit this issue in the biennium if we're having difficulties recruiting and attracting hourly private bar lawyers, if the hourly rates are set too low. But yeah, your point is very well taken that I think it needs to be highlighted as one of the crucial areas that we identify as being a huge risk. That's one of the things, now that I say that, that's not in this framework is the risks that I think we need to talk about. These things could topple the whole apple cart, that should probably be in the letter, even though she didn't ask for that. I think it's important to point them out.

And one of them is the obvious overall inadequate funding, but the big one to put a fine point on it is the hourly rate piece. That if we don't have sufficient funds to attract a number of private bar lawyers, we're going to have Betschart releases, the underrepresented numbers will grow. Obviously, another risk is if we can't implement some work with system partners to implement some changes to the system and case keeps going up, case filings keep going up, are we going to be able to A, keep pace, but B, we're not going to be able to clear the docket of people who don't have lawyers. Commissioner Harris.

Rob Harris:

Yeah, thanks. Hopefully, you can hear me now. I think that's a really good point is that this letter should include the risks and the conditions that may or may not occur that may make it difficult to achieve these because it puts a realistic spin on this or frame, realistic frame on this. The other thing is when we talk about hourly rates and expanding state offices and adequate structure for nonprofits, I think that we critically made, I don't want to say a mistake, but didn't take into account in SB 337, the effect on the system as a whole with some of these changes we would like to see happen. It used to be said we need to fix the plane while we're flying it, but we took three engines out. And if you raise the hourly rate a lot, then you're going to have a handful of one-year lawyers, first-year lawyers at a nonprofit or a law firm saying, "Shoot, we can go out there and bill by the hour and make more money," and they're going to do it.

You have an increased capacity. You've converted contract lawyers who may be doing a very good job to hourly lawyers, and it's going to be potentially more expensive and also take fewer cases. Which may be fine, but we need to keep in mind how these changes that we would like to see or think are good may have different outcomes than we think they may have. And we need to preserve the system that works, the parts of it, pieces of it that work, and improve it. Maybe they don't all work great, but keep in mind we have different ways we're paying, at least three different ways we're paying people here, and every time we make a change in one, the other portions start looking as to what we're going to do.

Like careful expansion of the state offices. I'm for that, but unless it adds more people who were not in the system before, it doesn't really increase capacity, and we've seen that complaint before.

Increase narrowly, I'm for that. It will bring in lawyers who are not now doing it if it's high enough, but it also will just make lawyers leave and change how they contract with the state. It may decrease actual capacity. So, I think these are risks, and I think including some of these risks in this letter to the governor is fair and frames the challenges that we face, and it's not just, well, we'll tighten this screw and the whole thing will be fixed, because you tighten this screw and these other screws have a problem. So, it's more complicated, and putting it in a framework that shows this is our path, this is our goals. These are really good, by the way. I really like this. It's concise. It's laid out well. But to keep that in mind when we deliver this to the governor, to give her a realistic assessment of the challenges.

Chair Jennifer Nash: Yeah, I mean, Ken, you're in a unique position, I think. You're the perfect person to write this letter because you came from a public defense-adjacent position. You knew a lot about the system as the director of CJC. You knew a lot about what was being asked of public defense. You knew what your own perception was. You know what partner's perception of the problem was. And then now you've come over into this agency and have learned in 30 days, learned very quickly, that the problem is much more complex and much more nuanced and much that you push on one lever and another one is affected in a way that you didn't know before that's not easy to really understand.

And I think to the extent that you can spell some of that out for the governor in a way that's easy to digest would be really helpful. To say, "Yeah, I know what the talking points are, and I know you're hearing from 40..." I mean, this is me paraphrasing, obviously, "You're hearing from 40 different people who are telling you all these things, but here's what my observations have been in the last 30 days," or six weeks by the time you send this letter is, "When I've come over that I didn't know before. Here are the things that I know that I didn't know before that impact the system." I think that will also be really helpful too. Okay. All right. So, recruitment and retention. Yes, we know this. And then Judge Lipscomb's idea to explore the feasibility of having retired plan B judges perform public defense work, which is a very interesting idea, and it's certainly worth exploring and that's why it's in the letter. OJD, my thought was OJD probably won't like it, but how are they going to say no? Because that would be not a good look. Anyway, Judge Lipscomb, go ahead. You're muted.

Paul Lipscomb: I want to ask for a change in wording in number 12, but before I get to that, the second last sentence, no, the second last line in 11 says, "Develop to improve provider turnover." I would strike improve and put reduce.

Chair Jennifer Nash: Right. Good point.

Paul Lipscomb: And then in 12, instead of plan B judges performing "public defense work," I think it should say, to be broader than that, "plan B judges to assist in resolving public defense cases."

Chair Jennifer Nash: Oh, that's great. I like that. Well, including performing public defense work, so that they know that we're not just saying step in to do settlement conferences, but also that we're suggesting that they'd be able to take a caseload if they want to.

Paul Lipscomb: Well, we could assist in resolving public defense cases, including performing public defense work. That would be okay.

Chair Jennifer Nash: Yeah. I like that change. Thank you. Okay. And then 13 is really the idea that we ought to move toward having a single assignment coordinator in each county. And it doesn't necessarily need to be a state employee. It could be a contract administrator, like somebody specifically that has a contract to do that, or an OJD employee or whatever. I mean, we're not saying OJD should do this, but we're saying we're open to whoever, but have there be a single source of appointment for cases. Because one of the things that we've observed is that in counties where there is a single appointment source, the unrepresented issue isn't as large of an issue or isn't an issue at all. And that the appointment, if you streamline the appointment process, which includes what Commissioner Harris was saying about knowing individuals, who's available, who's not, assigning cases based on availability, all of that with a single entity. And by entity, I mean state employee, contract, whatever, that will streamline things on the front end. Commissioner Mandiberg.

Susan Mandiberg: This doesn't say a single appointment authority within each county, and I think that if that's what we want to work towards, we need to say that in so many words.

Chair Jennifer Nash: I think the idea was to have it be broad in the framework, but yes, I think that's what we're saying. Is that what we're saying, commissioners?

Susan Mandiberg: I mean, in the work session, I recall that as being what we were saying. And the question, and I may be recalling this wrong, but the question was whether we're talking about a county employee or whether we're talking about an OPDC staff person. But we were definitely talking about one appointment authority per county, rather than judges being able to appoint whenever they thought that was necessary to do.



Chair Jennifer Nash: Yeah, I mean...

Susan Mandiberg: I personally would like to include that in here somehow. And if there's a way to say that would just be our preference, or some other way. But if that's what we want, and we don't say this, then people are likely to go off in a number of different directions, and we'll be back here having to evaluate all those different directions, and I suspect getting back to saying one person in each county at the end of all of that time and discussion. So, I would rather say it upfront.

Chair Jennifer Nash: Agreed. Does anybody disagree? All right. Then one of the things that's not on here that I thought about that we might want to add that the commission has discussed a great deal, and we got public comment today about it, is to work on transitioning the workload model. Everyone agrees MAC doesn't work. It doesn't capture the workload. And by "everyone," I mean everyone – the judges, the DAs, everyone. Because so what if you close a case, it doesn't necessarily mean you have capacity to open a new case under the MAC model, right? If you're supposed to take 1,000 cases a year, I'm making this up, please don't... Let me be better, 300. Let's be the real number. If you're supposed to take 300 cases a year, and you close 25 cases, you're not going to take 325 cases necessarily. So, if you divide 300 by 24 months... Anyway, everybody knows what I'm saying, I'm just going on.

So, I think we need to look at how, within the system that we have, do we start to transition to a model where we're capturing work that's being done by lawyers. And the difficulty, and we can address this openly, it was brought up in public comment, that it's not true that we can't just move to workload model. We can do it whenever we want to. The difficulty for everyone who's listening, and the commissioners know this, is that our budget is based on a per-case model. The current budget, the past budget, we're budgeted based on the case forecast that comes now from DAS. So, we get periodic case forecasts, and that's how we get money. So, converting a system where we're paid based on the number of forecasted cases into a system where we're paying lawyers not based on the forecasted caseload is really challenging.

But I do think that everyone agrees that's where we need to move to. And we do it in PCR, we have an open caseload model. And so, I think that needs to be on this list is that we need to start looking at how to transition the workforce because that's the other thing that helps with the recruitment and retention piece. Any thoughts or discussions about that? I'm pretty sure Buckley has a thumbs up. Anyone else have any thoughts or...? Everyone's got a thumbs up. All right. Do you have any questions about that, Ken? That addition? I can't see you. Let's see.

Ken Sanchagrin: No, that seems clear to me.

Chair Jennifer Nash: Okay. Okay. So, any additional thoughts, discussions, direction, comments, before I ask for a motion about this?

Peter Buckley: One other comment, I appreciate the discussion, it helps get... My concern is that much of this is work we've been doing now for several years. So, Ken's got an interesting challenge to draft a letter that can both. And I really appreciate the idea of making sure the risks are also mentioned as part of the letter. I don't know what this is going to be, what the governor was hoping for. I don't know if we can get to that. We're not at a point where we can say we believe we'll have this crisis resolved by the end of 2026. We don't have enough information to say that. I don't know if we have enough information to say, "If the following happens, we believe we can solve this in the next two years." I still have that concern. I'm not sure, I'm wishing Ken all the best luck in drafting this letter, but I'm not sure how to accomplish that. Given the leverage we have in the situation, we can't force the courts to change. We can't force DAs to change. We can't force the system to change. We can say – I really appreciate the supply and demand frame on this – we can say we will work on decreasing the demand, but we can't as a commission decrease the demand. We can try to increase the supply, but again, we don't control the budget. So, there's limited things we can do to increase the supply. So, just saying the obvious right now. Appreciate it.

Chair Jennifer Nash: Thank you very much. All right. Do I have a motion to approve the adoption of Director Sanchagrin's framework as outlined in the meeting materials?

Rob Harris: Commissioner Harris, so moves.

Susan Mandiberg: Second.

Chair Jennifer Nash: All right. Commissioner Harris makes the motion, Commissioner Mandiberg seconds, and we need a call vote.

Mara Hoaglin: Commissioner Nash?

Chair Jennifer Nash: Yes.

Mara Hoaglin: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Lipscomb?

Paul Lipscomb: Yes.

Mara Hoaglin: Commissioner Buckley?

Peter Buckley: Yes.

Mara Hoaglin: Commissioner Harris?

Rob Harris: Yes.

Chair Jennifer Nash: Commissioner Lininger?

Tom Lininger: Yes.

Mara Hoaglin: Thank you.

Chair Jennifer Nash: Thank you. All right. Thank you very much for the discussion and all of your feedback and input over the years and months to get us to this point and hopefully, we can move forward and make some progress. All right. Next, a briefing on the Rural Advisory Committee membership from Jennifer Bell.

Jennifer Bell: Good morning, Chair Nash, members of the commission. For the record, my name is Jennifer Bell. I'm a senior policy analyst with the CAP team as well as OPDC's rules and records coordinator. I wanted to come today and just provide a quick update on the OPDC Rules Advisory Committee or RAC. So, although a RAC is not required, OPDC is electing to do a RAC as a way to engage stakeholders in our new rulemaking process. There is pending legislation that would require a RAC, so we're really just getting ahead of that and following those best practices early. So, the purpose of a RAC is to really provide feedback and to review proposed agency rules looking at things such as impact to small businesses and marginalized population.

So, we currently have an open recruitment for RAC members. It's open to the public. It's posted on OPD's external website. So, that is there. We originally intended to close the RAC application process on May 12th. However, after some internal conversations, we're going to extend that for a few more weeks and send out some additional communication, hoping to get a broader representation of stakeholders who are engaged. And we did receive nearly 20 applications, but most of them came from attorneys. And although we do want attorneys participating in the RAC, we also want to make sure that we've done thorough outreach to some additional providers, community members. So, we will be reaching out to those who have applied. We are going to hold an informational session on June 18th.

So, in the applications, it was fairly clear that we might want to provide additional information to interested stakeholders about what a RAC is. One of the questions on the application was, why are you interested in participating in a RAC? And I think we just want to be really clear, like what the scope of a RAC is, what rules actually look like. Some of the comments we got were things like changing contract language and doing some of that. And so, we just want to be clear with participants and say this is what a RAC is, this is what our scope of rulemaking is, to make sure we've got the right people at the table. OPDC's first rules are still set to go live October 1st. Because it's our first rule filing, we are going to start small. We're really looking at agency definitions and acronyms, which we have secured, we just really want to get those formalized into a rule, as well as setting forth OPDC's rulemaking authority now that we're under the executive branch. So, we are going to start those initial rules fairly small and really just talk about some foundational elements for rulemaking going forward. Any questions?

Chair Jennifer Nash: Do you need anything from us?

Jennifer Bell: I don't think at this point. Anybody who's interested, again, the information sessions that we did originally, so office hours around rulemaking, are posted on the external website, as well as the application for any interested parties are all there. We can get the link out in the minutes or Mara can send that out if needed to make that easier. But again, we're really just expanding or extending this time frame to make sure we've got a chance to engage as many stakeholders as possible in this process.

Chair Jennifer Nash: Well, thank you very much. I really appreciate the information. Any questions or any comments? Okay, it doesn't sound like it. Thank you. Thank you for the information and we look forward to seeing definitions of all the acronyms. All right. Let's move on to introducing our new trial support and development manager, Steve Arntt. He's very exciting.

Steve Arntt: Looks like I'm on camera. Very good. Good afternoon, Chair Nash, Vice Chair Mandiberg, and distinguished members of the commission. Thank you for affording me the opportunity to speak with you this afternoon. As introduced, my name is Steve Arntt, and I'm incredibly excited to be here. When I was selected for the position, I was elated. I cannot overemphasize how proud I am to be part of securing basic constitutional rights for Oregonians.

So, to give you a little bit of my history, I started my own practice in 1997. A significant part of my work was taking hourly court-appointed cases. And in case you're wondering, I had hair then. For some of you, this might be a little bit reminiscent. For some of you who are a little younger, this might sound like an old guy who's talking about what it was like to walk uphill both ways in the snow

going to school. In 1997, we were being paid \$40 an hour to take court-appointed cases on the hourly list. I know of at least one Measure 11 contract that was billing out at about \$750 for Measure 11 cases. I point all of this out not to say, "Oh, look at how bad it was," but to say, "Look at how good it's gotten." Meaning, yes, we're not in a perfect situation, but we've made significant improvements. And I think that sometimes it's a little hard to read the label from inside the jar, and we've seen and continue to see improvements.

In addition to my work as a lawyer, I was a commissioned officer in the Oregon Army National Guard. In 2006, I was called up for service in Afghanistan on two weeks' notice. I am forever grateful to the lawyers and judges who generously helped me get my cases transferred and get court dates reset. I spent the next three years in Afghanistan and Iraq. Among my duties, I was part of a team that established courts, mentored lawyers and judges in Afghanistan and Iraq, and we engaged in rule of law projects. It was an incredibly rewarding period of my life. It led to me being drafted, if you will, into the inspector general community. The inspector general is commonly referred to as the eyes, ears, and conscience of the commander. I took that challenge very seriously. The duties of the inspector general include investigations into fraud, waste, abuse, misconduct. In many ways, we are like an office of professional responsibility for military service members. Additionally, the IG is charged with assistance, inspections, and education. In the assistance branch, we're charged with helping individuals and organizations navigate systems, and to a certain extent, improving on those systems and ensuring that those systems are acting the way that we would hope that they would act. In the education, teaching, and training business, we focus on increasing the organizational capacities and efficiencies.

But where the inspector general really excels is at systemic improvements in process and procedure. Early on, I made a name for myself as an investigator, providing high-quality investigations and legal analysis, which led to me being assigned as the primary investigations instructor for the United States Army Inspector General School. While there, I saw many ways to improve the integrity and efficiency of the investigative process. During that time, I revised the training program, and the policies related to Army investigations. From there, I took a number of assignments as the command inspector general, most prominently at the 352 Civil Affairs Command, where I was the command inspector general for three different commanding generals. Ultimately, the Department of Defense recruited me to improve their policies and procedures.

Now, within DoD, there are 23 components, and each of them has a different perspective as to policy developments. Many times, my role there was to work with the different stakeholders and reach some sort of collaboration and ultimately some sort of agreement as to what the policies would be. Most recently, I was with the Department of Veterans Affairs. The office that I worked

in at VA had a 1,500 administrative investigation case backlog on the day I joined. Additionally, the office was in a bit of a state of disrepair. We were in danger of losing our congressional funding at the time I took over. Concurrently, our stakeholders did not trust us to meet our statutory or ethical obligations. Over the course of the next two years, my team and I developed processes, procedures, policies, and training programs to address our backlog.

At the end of those two years, we eliminated that case backlog and built out our policies. So, in that respect, my last job feels a little bit like what we're doing here at OPDC, where we're building the plane as we're flying it. When I look back on all of these experiences, I'm fortunate that I was able to work with what are really high volatility, highly uncertain, highly complex and ambiguous problems. As Chair Nash was discussing earlier, I believe, when you pull on one thread of the sweater, it bunches up someplace else. And in the short time I've been with OPDC, I've looked at things and said, "Hey, what if we did this?" I got to tell you, the people who work here are really smart and they're willing to offer up their opinions. And they'd say, "Yeah, we could do that, but here's where we would bunch up elsewhere. This is what happens when we pull that string." So, I'm very excited to be here. I'm looking forward to working with everyone, and I'm certain that my experiences will add value.

Chair Jennifer Nash: We're very happy to welcome you. Well, I'll speak for myself, but I'm sure other people agree. I think you're the perfect person for this job... [Laughter]

Steve Arntt: Thank you. [Laughter]

Chair Jennifer Nash: ...with your background in public defense and your program experience and military experience. We couldn't have crafted a better person, so thank you and welcome to the agency. We look forward to all the work that we're going to do with you. Do other commissioners have questions or comments? Okay. Well, thank you again and look forward to hearing from you in the future.

Steve Arntt: Thank you, ma'am.

Chair Jennifer Nash: All right. Turning next to Ms. Taylor and our legislative update.

Lisa Taylor: Hello, Chair Nash and members of the committee. Happy last month of session. I'm going to share my screen here. Great. Can you see the presentation? Okay, fantastic. All right. Well, I'm going to go through our presentation, talk a little bit about the climate of the building, some policies that we're seeing on public defense, a little budget update, and then upcoming dates. So, starting with just the climate, I think fiscally cautious and current service level-focused is a good description of kind of how the building's operating right now. I took this quote from Senator Prozanski's newsletter in early April, "The budget framework's

focused on fiscal responsibility and maintaining core services." That quote comes before the most recent revenue forecast that just came out, which was down from the previous forecast.

So, I think this kind of fiscally conservative approach is probably more salient now than it was even two weeks ago. I won't go too much into the forecast because I'm not a forecast person, but the forecast, while it's still up from the close of the previous session, it's down from the previous forecast. So, three months ago when the last forecast happened, the Legislature thought they would have more money now than they do based on this last forecast. And I'm sure Commissioner Buckley can provide more insight if I'm incorrect with certain things. But along with that forecast that was down, there's also, of course, federal funding concerns, and then a general looming recession, which has been something that's kind of been on the horizon for a long time now, has never really developed. We're not in a recessionary stance right now, but I think it's something that's always kind of in the back of folks' minds, talking about budgets.

The co-chairs put out a framework about a month or so ago, and that's of a buildout of the buckets of money that are going to be available for the different areas. And in that framework, there was 452 million for public safety over the legislatively approved budget from last time. Again, that framework is for all the public safety agencies except for OJD, which I believe does its own resources. So, that's not just us, that's the fire marshal, that's the DAs, that's the state police, it's everybody kind of in the public safety community. So, I think that's just a good number to keep in mind when we think about resources that we might have available.

And then on to our policy discussions, I think the main bill, obviously, for us is 2614, the new bill that updates Senate Bill 337 from 2023. So, I think we've talked about 2614 before, but here's just kind of where we stand now. The House adopted some amen...the dash fives, I believe, and so Engrossed became the A-Engrossed version, and headed over to the Senate. And the Senate just adopted the dash A10s, and so that will be headed to the Senate floor. So, here's kind of a summary of the two amendments. So, on the left is what the House adopted, and on the right is what the Senate just adopted, and in bold is kind of the summaries of what the differences are. So, both bills continue subcontracting through July 2033 and establish some governance requirements for those subcontractors. So, that's kind of the consortium provisions.

And then the change, the kind of governance statutes, in the A-Engrossed version, it still used the July 2027 date, but it made it so that a commissioner and the executive director could be removed by the governor for cause. So, this, in Senate Bill 337, starting in July 2027, we basically got the independence back

where the governor wasn't responsible for removing the executive director. And then in the A-Engrossed version, that basically how we're operating now was put into place starting July 2027 forward so that the governor will have that authority going forward. In the dash 10s that the Senate adopted, they just moved that date forward to July 2026, I think to accommodate the fact that the governor used that power, and they just thought that putting it in place right away made more sense. But they also changed the language a little bit so that instead of the governor being able to remove commission members for cause, it was for cause by the governor. However, if she or they have removed more than three within the 12-month period, there has to be the reasons which are malfeasance, ineffectiveness, and something else that I don't have right in front of me, but for kind of...

Chair Jennifer Nash: Lack of duty. But that's actually not right. So, there's two things. If they move the effective date to January 1st, 2026, and the dash 10s.

Lisa Taylor: I'm sorry.

Chair Jennifer Nash: And it's not July. And it's for just cause. So, that's an important distinction, which has been lost on a lot of people, which was part of my testimony. It's not for cause, it's for just cause. And just cause is a specific term that's legally defined under Oregon law that's a higher standard than cause. So, it can't just be, "I'm grumpy with you." There has to be basically misconduct. That's not quite right, but it's basically you have to commit misconduct. So, I think it's an important distinction. And I appreciate Senator Prozanski's effort to try to have us maintain as much independence as possible. Sorry, go ahead, Ms. Taylor.

Lisa Taylor: No, thank you for that. The next part is about the executive director. So, again, in the House version, the governor would appoint the executive director after consultation with the commission, and it would be confirmed by the Senate. In the Senate-adopted amendments, the governor would provide the commission with three candidates for the director, and then the commission would appoint from those three candidates. There's also some language about if the commission doesn't appoint within 60 days, that the governor can in fact approve. And then the rest of the bill, the amendments are the same. Again, it replaces that best practice language with constitutional requirements and then removes the compensation language for contracts about... And it moves the budget process to DAS. It removes the advocacy language that the commission can advocate for or against legislation, and then it directs us to make a registry of attorneys who are providing [Inaudible 03:15:44]. So, from here, it will move to the Senate floor for adoption, and then it moves back to the House for them to concur or not concur with the Senate adoption, and then it would move on to the governor.



Chair Jennifer Nash: Other questions, concerns by commissioners? I can't see everybody's hand because of the slide. So, if anybody wants to say anything, pipe up. So, this bill, one of the significant things regarding governance other than the obvious removal, replacement clauses, is that we can no longer as a commission advocate for any legislation. So, I'm not sure it matters a ton at the end of the day because any individual commissioner can sign up in their individual capacity and make any statement that they want to about any legislation they want to. And you can reference your service on the commission but make it clear that you're testifying in your individual capacity. In fact, Commissioner Buckley did that twice on House Bill 2614. I testified in my official capacity and got some pushback about that. As I explained to commissioners, I think the main concern about that really was whether or not the commission in a public meeting fully discussed House Bill 2614 or other legislation and voting members of the commission had an opportunity to vote on what position we would take on legislation.

There is the ability in our bylaws, which we're going to have to change now to conform with this law if it passes, the ability for the chair to advocate for legislation with the approval of the commission. As we discussed in our workgroups, the commission gave me the ability to advocate for this legislation regarding the governance piece, and I did that twice. But in the future, won't be able to do that as the chair. So, we'll all have to show up and we'll just have to testify or submit our written testimony. And then the other thing is we have to hire, if we have a new executive director after January 1st, 2026, we have to hire the executive director based on three names that the governor will provide, and we have to do it within 60 days of the governor providing us three names that she's vetted. So, any other questions or concerns about the governance piece? This does also extend consortia and has some specific rules about what you have to be able to do as a consortia to be able to have a contract with the agency. Commissioner Mandiberg?

Susan Mandiberg: Well, I'm concerned about the governance piece. I think that it's important for public defense agency to be as independent as possible from political branches of government. And I think that this reduces... Well, I think we've had the illusion of independence since we moved to the executive branch. I'm not sure if it reduces that. I think the change to just cause from just plain cause is essential. But yes, I'm concerned. I don't think there's anything much we can do about it, but I think I'm concerned about what this does to our ability to advocate for things we need to make this an ethical, effective public defense system in Oregon. So, I'm just registering my concern.

Chair Jennifer Nash: I will say those questions related to your concerns were asked by Senator Gelser Blouin during the workgroup session on Monday. And Chair Prozanski, who is a member of this commission, indicated that he thought there were, A, the

answer was there's nothing that prevents commission members from answering questions that we ask them. This basically wouldn't prevent us from answering questions that we were asked, and that the Legislature has the ability and particularly that committee would ensure that any questions that they had would be answered and that they would provide opportunities for the commission to provide feedback on bills in... I think the exact way that Senator Prozanski put it is we have our ways of getting the information we need. [Laughter] So, there was a real push – not defending, believe me, just explaining – there was a real push to make our agency and our commission like all other executive branch agencies, which is exactly why the former commission really oppo...is the only part of Senate Bill 337 that the former commission took a position on, which is moving to the executive branch because we were afraid this exact thing was going to happen and, surprise, this exact thing happened.

Susan Mandiberg: Let me just say that I think that the answer is okay, but independence means that it doesn't matter whether the people in the political branch are allies or opponents, right? People in the political branch who are sympathetic about public defense, sure, there are workarounds and ways that we can get our information and our position across, but we can't always expect that people in the political branch will be sympathetic to public defense. And so, my concern about independence to ensure that we have a working system is still a pretty strong concern.

Chair Jennifer Nash: Agreed. Commissioner Buckley?

Peter Buckley: I share those concerns, and again, I'm just flabbergasted the Legislature has decided to spend so much time on governance issues rather than on the crisis that we're facing. It's astounding to me. I saw it happen when I was in Legislature. It becomes like this thing you can't stop, but I find it absurd that so much time has been spent on the governance issues rather than on the crisis that we're facing.

Chair Jennifer Nash: Yes, and I think it, for me personally, I've been thinking about this because I've been really spun up about it. And for me, it again underscores the importance of being an involved constituent. And we can all, as Commissioner Buckley did, show up, sign up, it's super easy to do it by video. I was going to testify in person, but then they changed the... On Friday, they changed the date of the hearing from Monday to Tuesday, and I had already moved all my Monday to Tuesday, so I couldn't move all my Tuesdays back to Monday on Friday afternoon. So, I testified by video, I've done that twice now. The Legislature makes that very easy to do. You can upload your testimony, your written testimony, very easy to do. So, I think that it just behooves us to make sure that we do that on whatever issues we're concerned about, not just public defense,

but whatever issues we're concerned about to make sure the Legislature hears us and pays attention. Commissioner Lipscomb.

Paul Lipscomb: I just have a question, and it's kind of off the register a bit, I guess, but the document I'm looking at has quite a number of spelling mistakes. I don't know the source of the document, but if we're going to agree with it or deal with it in any way, I'd really like those spelling mistakes corrected.

Chair Jennifer Nash: Yes, thank you. I appreciate that. I was going to point that out after the meeting. Yes. All right. Any other questions or concerns or comments about... And of course, House Bill 2614, it's different. The dash 10s are different than the House Bill. So, they're going to have to reconcile those, and if they can't reconcile them, I mean, this isn't a done deal, right? Because the reconciliation could be, "Oh, we're going to go back to the original House Bill." So, the work isn't done yet. So, make sure that you, as individual commissioners, let the chairs of both of those committees know how you feel about this legislation, and if you need the contact information for those people, Ms. Taylor can help you with that. All right. And with that, we'll move on to our last item, which is... Oh, Lisa, you have more to talk about, don't you? I'm sorry.

Lisa Taylor: No problem. Just a few more things.

Chair Jennifer Nash: Yeah.

Lisa Taylor: I was going to just go over some of the other policies that we've talked about in the past. The Senate Bill 174 is defense clinics, which is in Ways and Means. The discovery bills are both dead, so they're not moving forward. 2469 is the misdemeanors to violations, which is not moving forward. And then aid and assist and civil commitments, there are a couple bills that are in Ways and Means that we're doing predictions that [Inaudible 03:26:23]. Let's see. And so, then we have our budget process. We are in regular communication with LFO and the governor's office, working to finalize budget details and provide them with information they need for the Legislature to finalize the budget, but we will keep in contact with them. And then, just finally, upcoming dates. Obviously, our commission meeting today, then our second chamber deadline is on Friday. We have another commission meeting in June, right before our target sine die, and then our constitutional sine die is on the 29th. Thank you.

Chair Jennifer Nash: Thank you. Any questions for Ms. Taylor? Okay. Thank you very much for your legislative update. All right. Moving on to the director's update. Director Sanchagrin.

Mara Hoaglin: Ken, you're muted.

Chair Jennifer Nash: You're muted. Yeah.

Ken Sanchagrin: Thank you. I'll be even briefer than the brief intro I tried to provide while I was muted like a fool. So, we have a couple slides here for the director's update, and I hope to get you all to lunch pretty quickly. So, if we could transition to the next slide, please. So, we have a few upcoming dates and events, some of which were just mentioned. So, yes, we have the workgroup meeting we talked about earlier, a Governance Subcommittee meeting on Thursday, June 5th, and then we have our in-person commission meeting in Bend. So, lots of things to look forward to as we move to the next few weeks. Next slide, please. And then the other update that I'm providing today is that we want to congratulate Amy Schabert [Phonetic 03:28:25] on her promotion to our compliance manager. She's now going to oversee our program analysts within the CAP Division, and that'll be a focus on operational compliance efforts. We're going to be working on our provider relationships, many of which flow into our discussions we just had about Exhibit F earlier, caseload monitoring, and administrative contract enforcement. Amy has been with the agency, I'm sure as many of you know, for many years. She's performed almost every duty, I feel like, across the entire agency, even as it has expanded, and I've been relying a lot on her for much of the history that we have here at our agency, and so I'm very excited to announce this change. We are discussing, too, some ways to make sure that the structure of CAP works well going forward. A lot of that rests with our deputy director who has been on vacation, so I think this is a preview of that, but we'll have more details to provide for you all in future meetings and future director's updates. And so, that's what I have for you all today. I'm not sure if you have any questions, but I appreciate you all having thoughtful discussion today, and it was a good first meeting for me.

Chair Jennifer Nash: Thank you. Does anyone have any questions for the executive director about his update or anything else? Okay. All right. So, our next full commission meeting that's currently scheduled is for June 12th in Bend, in person. I have not checked with Mara regarding who has responded or not responded, but if you have not responded to Mara regarding lodging or whether or not you're going to be there in person, please do that. I will be there in person. I don't know who else will be there in person yet. We do have a workgroup meeting that got changed because the cadence for the June meeting's a little off. It's earlier than usual, so our next workgroup meeting is set for May 29th. I know I already received a couple of messages from people that they may not be able to make that or that they may be able to pop in just briefly. Please try to give Mara a head count because if we are going to take up the Exhibit F piece, I have to make sure I have a quorum of voting members, and that's, as we know, a little tricky these days. So, I would appreciate that. And with that, go to House Bill 2614 page to keep an eye on the schedule. I'll ask Lisa to just make sure she keeps us updated about what that's

scheduled for and when so that we know. And with that, I will adjourn today's meeting and thank everyone for their attendance. Thank you. Bye.