

Jennifer Nash: Welcome to the September 17th, 2025, meeting of the Oregon Public Defense Commission. We are starting this meeting officially at 10 o'clock. This is a pre-meeting commission work session that we will have from now until 10 o'clock to discuss a number of matters. This is a new process that we are starting. It's an expansion on our alternate week, once-a-month work session, to give the commission an opportunity to discuss matters that will be coming before the commission in a more open setting, and also to obtain information from staff regarding things that the commission will be considering. And so, with that, I will turn it over to Director Sanchagrin who will give us an introduction to what we're going to be doing.

Ken Sanchagrin: Thank you, Chair. And just one other brief expansion on the Chair's description of the pre-meeting work session. What we hope to do as staff as well is we're modeling this after, it's a suggestion that Commissioner Harris brought us from the Hillsboro City Council, where we can discuss items like you would normally see on our Thursday meetings when we do the work sessions in the evenings, but this is also an opportunity for staff to have a tighter connection with the commission to do things even like Department 101s or issues that are just of interest, both to the commission and to the public, but more in an informational kind of fashion.

So, in Hillsboro, for example, the library would come in and give a summary of what they're doing or other types of departments. And so, what we're leading off with today before we get into more substantive matters on performance standards is an introduction to our Trial Division and a discussion of how we calculate workload and just how the division works. And so, we're really excited to bring this before the commission. We get lots of questions about this, both from commissioners and from our provider community and the public, and so we thought this would be a good lead. And so, this is supposed to be very free form for you all as commissioners. I'm sure that both of our presenters are fine if you just interrupt them as we go along, but it's supposed to be more of a discussion as opposed to just a presentation in a more formal sense. And so, if any commissioners have items that they would like for us to bring in the future, please let me know, and we'll begin to build this out as far as what you'd like to know about what we do as staff. So, with that, I will turn it over to our staff and we can talk about Trial Division.

Maddy Ferrando: Good morning.

Aaron Jeffers: Aaron Jeffers, chief deputy for the Central Valley Regional Trial Division. We've been here since the beginning of the Trial Division. The mic, yes. And I'm very happy to be here giving you information today about how we measure attorney capacity, and if we're ready, we can launch right into it. So, the first thing that we'd like you to know is that MAC utilization is the primary measure of attorney capacity for the Trial Division of OPDC. We do still monitor the ABA National Public Defense Workload Standards Model, and that is essential for collecting workload data that is actually

going to show us how much time we spend on each case type across all jurisdictions, and it's part of what is missing from the formula that came from the Deason Center with the Oregon Project.

Jennifer Nash: So, you're time tracking and monitoring that?

Aaron Jeffers: Correct. We're doing both. We're doing them separately. We do MAC utilization as apples to apples as is possible with contract providers. We'll get into the details of that as well. But then we are also tracking the, as directed by the commission, the National Workload Standards.

Susan Mandiberg: How are you tracking the workload model?

Aaron Jeffers: Yes.

Susan Mandiberg: What kind of data do you have that lets you do that?

Aaron Jeffers: So, the calculations that went into the workload model through both the Oregon Project and then later the National Standards, they had specific case weights and case types, and then also types of work that you would do on a particular case. For instance, discovery review would be one of them. Client communication is another one. And so, we use the exact same numbers that were put forth in both those reports at those times. Initially it was the Oregon Project that we started with. And so, that gets to the next slide, actually the history, we can move to that one.

Susan Mandiberg: So, you don't actually have data from providers showing how much time they are spending on these things?

Aaron Jeffers: Providers are not required to report timekeeping at this time.

Susan Mandiberg: That's what I thought. I want to make it clear.

Aaron Jeffers: But the Trial Division has since day one.

Susan Mandiberg: Okay, thank you.

Rob Harris: But Aaron, you're actually tracking actual time as well.

Aaron Jeffers: We are tracking the 6.5 hours of case-related work per day per attorney.

Rob Harris: But are people keeping their actual hours and recording that as well?

Aaron Jeffers: Each individual attorney is recording that on the cases that they work on, and in some cases where we have pre-appointment work that we do, they're still tracking

it. And we use Clio is the case database management system that we're using to track this right now. Eventually that will become the FCMS that we obtain, but for now we're using Clio. And so, the way that we do it accurately is we enter all of those categories, and we enter all of the case weights into Clio. And at the beginning of the case, there are custom fields that we use, and we fill out in every single case, and we assign both the case types for the National Standards, as well as MAC. And so, they both are being tracked in Clio on an individual case level. Timekeeping is being tracked on an individual attorney level and all of those categories under the ABA National Workload Standards Model. And that's honestly the kind of X factor that comes along with being able to fully convert to that kind of a standard.

When we first got started, the Deason group was very involved with OPDC at that time. They were still presenting to providers and everyone on the Oregon Project model, and those were the experts that we relied upon at the time at the very beginning to say, what should we be using to measure our workload? And they said, "The Oregon Project." And so, later in 2024, we got direction from the commission to adopt the national workload model. And at that time we began immediately, we had to convert everything. We had to do intensive mapping and literally convert everything over to the National Workload Standards at that time. But shortly after that, it became clear that our stakeholders wanted to know what our MAC was, so we could say what is your MAC compared to any other provider that's out there?

Rob Harris: I just want to go back one thing...

Aaron Jeffers: Yes.

Rob Harris: ...because I just want to make it clear what you're tracking. Forget Oregon standards, forget National Standards.

Aaron Jeffers: Yes.

Rob Harris: Are your lawyers actually saying, "I just spent 0.3 hours in court," and tracking that actual time as well?

Aaron Jeffers: Yes.

Rob Harris: Okay, thank you.

Aaron Jeffers: Yes. And so, we use the National Workload Standards categories to track that time. That's how we developed it to make sure we were, apples to apples on what we could really get a comparison of how much work in each of these categories are attorneys actually doing. And that's to get back to me saying, there's an X factor in the presentation that was given before this commission and at the annual conference back then, shortly after I started. The actual time spent on a case is

critical to being able to use the National Standard, the Oregon Project standards at the time and the National Standards now. And that's a number we don't really know without time tracking. And so, it's still critical to do both because then we can come to a place where we know exactly how much time we're spending in each case, as long as our data is accurate, and then we can someday be able to have enough valid data to actually say, "This is how much time our attorneys are spending in this case." And as time tracking expands outside the Trial Division to the rest of the state, we'll be able to have real-time, accurate data on how much time our attorneys are spending doing work.

Jennifer Nash: And I think I will just say that's incredibly critical because I have heard through my time as the chair on this commission, particularly from legislators, that they don't trust the National Workload Standard study and they don't trust the Oregon study because they think that numbers were just anecdotally reported, that there was no data, blah, blah, blah. And so, having actual time tracking that shows the number of hours that are spent on each particular case and each particular task in a case, I think, is going to really, really be helpful for the agency moving forward, for the commission. Yep.

Aaron Jeffers: We've been doing that since day one in the Trial Division. So, getting better at it as we go all the time. Okay, so I think we can move to the third slide now. So, the MAC model, because everybody's probably heard MAC, but there are actual numbers that are associated with it. There's a 1.0 FTE per attorney, and then there's different standards for each category of cases in the MAC model – murder, six; Jessica's Law, six. You can see those have the highest MAC value of any cases, and then it lowers as you go down to probation violations, which have a 0.001 MAC value. And so, those are the same things that we are tracking exactly the same way that providers do when it comes to MAC. So, we are tracking in Clio the national model standards, but we're also separately tracking using the same case types, using the same credit weights in MAC, using the same contract case codes, and using the same 300 total case credits as 100% MAC. All of that, we are tracking exactly the same as the providers. So, we wanted to have as much of apples to apples as we can.

There are some things we do that are different than the providers, mainly trying to resolve cases pre-appointment for some of our early resolution dockets. When it comes to those, we don't take MAC on those cases unless the case actually resolves. So, if we have like a docket of 20 to 30 cases that are in consideration for a potential early resolution, we're looking at that discovery, we're talking to clients before court, we're reviewing offers and options with them, but we're not taking MAC credit for those cases. We can track the hours in Clio. Again, we have a case assignment, pre-appointment matter essentially in Clio that allows us to track the time that our attorneys are spending on those cases in Clio, but we don't get MAC credit for those cases unless they actually go to a resolution.

Philippe Knab: Can you explain a little bit about exactly what types of cases those pre-appointment cases are?

Aaron Jeffers: Yes, they are unrepresented cases. And we first started this in Coos County. There's also one in Jackson County, and Multnomah County just did their first early resolution date recently. And so, they're cases that are on the unrepresented list and the form changes in different places. In Jackson County, they're doing it at initial arraignment. In Coos County, the DAs provide a list to the court and us of about 25 to 30 people for each month. And in Multnomah County, we provided a list of 248 cases to the DA's office. They selected 40 cases from that list of 248 that they were willing to make early offers on, and they had a day or two scheduled in court to try and resolve those cases in Multnomah County.

And in Marion County, the court is actually selecting the cases based on category types. Marion County wanted to do types of cases together at the same time so they could have similar cases trying to resolve. And so, we're starting out with low-level theft two, theft three for the first week there. And that one's going to be weekly, 20 cases a week, so hopefully 100 cases in a month that are trying to resolve in Marion County. Starts on October 2nd. And they're starting out with theft two, theft three, then moving to other general property crimes and then driving offenses was the most recent one that we were working on there, perform the duties of a driver cases. And so, they're usually low-level. There's occasionally felonies. If somebody has a low-level offense, but they have other probation violation or felony cases as well, we're going to try and resolve all of those, not just the one low-level offense, but mostly it's lower-level misdemeanors and lower-level felonies.

Rob Harris: Aaron, I would say that having put together a couple specialty courts over the years and negotiated with the agency about how to pay the lawyers who need to be there, if you want to, not right now, but during a break or afterwards, or give me a call, because your lawyers should get credit for the time they're doing down there. I can sort of maybe run over about how I've bid those as far as like making sure that you get credited the appropriate amount of MAC. If you're interested, give me a call. I'm not going to do it here. Thanks.

Aaron Jeffers: Sure. I would love to talk to you about that, Commissioner Harris. Thank you. And right now, when we have a potential difference between the way that we calculate MAC and the way providers do, we usually err on the side of not counting it. We don't want to have an advantage over the providers. And so, for now, we're only counting those cases that resolve, which is a percentage...

Jennifer Nash: Except that you're not helping when you do that because you're hiding the work you're doing, which doesn't help the other providers either. So, we do have to figure out a way that's data-driven to track those so that stakeholders have an accurate idea of the work that's actually being done.

Aaron Jeffers: Yes. And we are wanting to capture the hours in Clio that we work. So, we at least are tracking how much work is being done on those types of cases, and we can report on how much time we spend on those. But yes, we have to come up with something. If we're going to get MAC credit for all of those, we would have to design that. I'm happy to talk to Commissioner Harris about that. Thank you, Chair Nash.

Susan Mandiberg: I have what may be a stupid question because I'm not a statistics person, but is there a way to, now that you're tracking actual workload hours, is there a way to figure out whether the amount of MAC that we're assigning for certain kinds of cases actually reflects the amount of workload time that gets put into those cases?

Aaron Jeffers: Thank you, Chair Mandiberg. I think that's, again, where the timekeeping is going to play a major role in not just assessing the National Workload Standards, but also our MAC standards, if there are places where we really do see a lot more work being done...

Susan Mandiberg: Or less.

Aaron Jeffers: ...for a particular type of case. Or less, yes.

Susan Mandiberg: Yeah, so are you actually doing that, or is this something that's on the schedule to do sometime in the future?

Aaron Jeffers: Well, we are tracking the data right now.

Susan Mandiberg: Right.

Aaron Jeffers: And so, we will be able to compare it to MAC because we're doing both at the same time in the cases.

Susan Mandiberg: But that's not ongoing, that's something you're planning for the future.

Aaron Jeffers: We will be able to compare any of those things, that and much more in the future when we have kind of enough robust data to really dig into how much time are we spending on these types of cases.

Susan Mandiberg: Do you have a sense of how long in the future that will be able to happen?
[Laughter]

Aaron Jeffers: Commissioner Mandiberg, I think that's a data question, so I'm going to turn...

Maddy Ferrando: Hi, my name's Maddy Ferrando, I'm a research analyst with the agency. That is something that we really do want to get to because that is part of those reasons why we're excited to have the Trial Division. Right now, they've taken about 3,000 cases. And so, once you start to slice that in a few different ways, especially if you start to look at any county differences, you come up with a pretty small sample size when you start to slice the number of cases that they've taken. But I would hope within the next year or so, we would be able to maybe start to do that.

Susan Mandiberg: Okay, thank you.

Alton Harvey Jr.: In tracking that time for those low-level cases, and you did say some low-level felony cases, does it matter whether the person is in custody or not in tracking that time, or does that make a difference?

Aaron Jeffers: I mean, we track this time exactly the same for both. As to whether or not it matters if somebody's in custody or not, it does matter, and that's something that I'm not sure we have a data point on.

Alton Harvey Jr.: I guess my question would be, would there be more time spent for someone in custody as opposed to out of custody?

Aaron Jeffers: I mean, Chair Harvey, I can only answer that anecdotally.

Alton Harvey Jr.: Right.

Aaron Jeffers: We are tracking the data to be able to answer that question specifically, at least if we have in-custody case.

Maddy Ferrando: Yeah, so we track whether the clients that the Trial Division works with are in custody or out of custody. So, we will be able to look at the different types of time that they tracked for clients that were in custody versus out of custody and determine those differences. They track about, I think, 10 different time tracking categories, things like court time, travel time, so we can see sort of which ones, which, like, do in-custody clients require a lot more time in these...

Alton Harvey Jr.: That's...

[Crosstalk 00:19:13]

Maddy Ferrando: ...different categories.

Alton Harvey Jr.: Thank you.

Aaron Jeffers: And Chair Harvey, anecdotally, I would say in-custody cases usually take longer, but let's have some data on that in the near future so we can see.

Philippe Knab: I have kind of two quick questions. One, I was wondering if you had an overall number for the pre-appointment. What portion of unrepresented litigants are the district attorney's offices actually engaging in this process with you and what is that proportion?

Aaron Jeffers: So, Coos County, Jackson County, Marion County, and Multnomah County are currently engaged. And we just did a report yesterday for Director Sanchagrin where, I'm sorry, Chair Knab, where I think that we resolved about 150 EDP cases since May. I didn't do the math on what percentage they are for each county. In Coos County, it's probably 16, just based on my memory of the graph. We try to get about 20 people to show up to court. Usually about 15 to 16 show up. Of those, we resolve – or sometimes 12 – of those, we resolve an average of 9 per court appearance. So, it's a good number of resolutions that actually come through for the people that show up. Not everybody shows up to those court appearances. Some of the people that the DAs have chosen to include are in warrant status. Very few of those people have showed up to court.

Jennifer Nash: Yeah, that's right.

Aaron Jeffers: So, it just kind of depends on each area, how much work goes into it. In Marion County, nobody's in warrant status. We haven't started that yet. We start October 2nd. But the court is actually reaching out to those people and making phone calls to them and making notations for us whenever they actually reach a defendant. It's a fair amount of them that they're actually saying, "Hey, there's going to be an attorney available to review your case with you in court at this date and time." I think that's going to really help with show-up rates for those people. And some of them have even already called us on cases we don't have discovery yet for. So, they're providing that to us probably at least a month in advance. But we're out to, I think, October 23rd at this point in terms of the cases we've identified for that court appearance. And so, as the discovery comes in and we reach out to those people that have already been contacted by the court, I think we're going to see some good success rates with those cases.

In Jackson County, they attempt to resolve them at the initial arraignment. So, the person is, as long as they show up to arraignment, they're there. And there's an offer and some reports for our chief deputy, Alyssa Bartholomew, down there to review with those people. And she averages, that has the... We have the highest numbers because it occurs more frequently. So, there's more opportunities and people are showing up for arraignment already, and she has a pretty high success rate with resolving cases at initial arraignment. And that's something because we've learned that is successful there, I'm also talking to Coos County about potentially

starting an initial arraignment. I've talked with the DA in Coos County about that. She was open to that idea. So, we're going to talk about it further.

Marion County was very specific on wanting to do it the way that we're trying it first here, this pilot. If that's successful, I expect it to continue in the future, and then maybe we can talk about expanding to some of these other ways of doing it. Multnomah County has taken kind of one of the longest times to get going. They had a very successful 20 resolutions in one day up there the first time that they tried it, but it's probably going to be a couple months before they try again up there. So, that one's a little longer. Coos is monthly, Marion's going to be weekly. Jackson is multiple times a week. But we are willing to do anything that the courts and DAs are willing to try with us, we are interested in seeing if we can make something work for every jurisdiction that we're in.

Philippe Knab: That's encouraging. And I'll say in the Bronx, nearly every one of the low-level misdemeanors was resolved at arraignment, and I think that was out of necessity. So, I think that makes a lot of sense, and it's a pattern of practice that seems to work even in Jackson County. So, it's encouraging. My other question, which is, is there any way to compare hourly attorney data from the hourly attorney programs with the State Trial Division? Do you have ability to look to kind of aggregate those data sets, or do you not get sufficiently specific data from the hourly attorneys?

Maddy Ferrando: We get some hourly data from our hourly attorneys because they bill us for the amount of hours, but it's not broken down in sort of those same categories. So, there's certain comparisons we can make, but there's definitely some limitations with the hourly billing data that we have currently.

Rob Harris: I want to address really quickly how important it is when you do early case resolution, early disposition programs, how you count the time. Obviously one of the goals, early disposition, is to get good offers so there's likely to be more resolution on those dockets. If you're counting credits for cases resolved, however, it can appear as if it's a plea-a-thon and the work isn't being put in. That's why it's so critical, I think, to credit based on the hours involved in those cases, not on a MAC basis. And I know you're doing that, but again, we'll talk after, but I think it is critical to make the distinction that you are putting in the work, but it's not a plea-a-thon. But they can result in a lot of resolutions because of the nature of the docket as well.

The other thing I wanted to mention is our tracking hours and eventually correlate that data to National Oregon Standards or MAC standards and see how it all fits together. I mentioned this to you earlier at the meeting we had a week or two ago, is that my one concern about that is that if someone gets 300 misdemeanors and they're told, "Do this work," and they're working 50 hours a week or whatever the number is, that the amount of time spent on each of these cases is simply going to

shrink to fit the time there in the office. And if they had 200 cases and they still work 50 hours, they would still be working 50 hours hard. But now it looks like it takes this much time, so the timekeeping is just as much a function of the amount of time that lawyer and their staff are in the office as it is the necessity of the wing work on these cases. So, I think that's important for us to keep in mind. And without having like a control group, like a group of attorneys who just said, "Well, do all the work you need on these cases and we'll track it and we're not going to concern that, which is I know what the initial Trial Division intent was to do that, I think partly.

Aaron Jeffers: Mm-hmm.

Rob Harris: I just want to mention for the benefit of any legislators who are listening to this, that the fact that it may come up to six hours on average per misdemeanor may mean that that's because the lawyer has 300 cases, not because it couldn't have used more time.

Aaron Jeffers: Chair Harris, that's a great point, and I think that that's why it's so critical to try and track the data and accurately so we can really see to the best of our ability how much time we're spending on different types of cases. There is only so much time in a week, but I think what you end up finding is that the attorneys do the work that fits the case. Some cases are not going to take as long, others are going to take a long time, and they're going to work long hours and do, and some work on weekends and travel before hours and after hours. But the best way to address that is with accurate timekeeping so that we can come back and try and figure out is this – attempt to answer the question – is this a result of 300 cases and you can only spend so much time on them so it's lower? Or are we seeing that our attorneys are putting in routinely more hours than we were expecting or less hours than we were expecting on these types of cases? So, I hope that's where the data...

[Crosstalk 00:28:33]

Rob Harris: Yeah, also trying to match that to outcomes would be ideal, but it's really hard to match outcomes because every case is different. Every charged person's different. I get that. It would be nice if we could come up with some metrics eventually on that, but it's just that's why the data collection is so difficult to measure quality or outcomes.

Aaron Jeffers: And Chair Harris, we are tracking outcomes. We track in a bunch of different ways. We try to track robustly the different ways that cases resolve and whether they result in probation or jail or a DOC sentence or diversion or a deferred sentence or dismissal, dismissal by plea, dismissal because the state was unable to proceed. And then case types at sentencings, whether they were charges reduced or increased from the initial filings. We are trying to have a very robust tracking of how cases resolve so we can also answer those questions when we have more data.

Jennifer Nash: I have a question and a comment. Washington County, is there any engagement with Washington County?

Aaron Jeffers: Chair Nash, there has been engagement with Washington County. We have not reached the point of actually getting to try out. I believe they have an EDP program in existence already out there, but the Trial Division has not been able at this point to get one going with Washington County. I've also spoken to Douglas County and that's one where we're hoping in the future that the DA's office will work with us on trying either an arraignment EDP or a docket EDP. One of those. The courts in Douglas County is open to trying arraignment, I know. And so, we just need more conversations, and I think we'll get there. And it helps that we're being successful in other places because that helps us say, "Hey, we are doing this and succeeding in the places that we're doing it. Let's try something here." And it doesn't have to be this. It can be one of these things, it could be something different, but let's try something everywhere we can.

Jennifer Nash: And then just not so much for you, but just generally a comment for the agency. Perhaps it would make sense to change the way the hourly billing is done to have providers provide their hourly billing in the same categories of time that are being tracked by the Trial Division and other providers so that we have uniform data so that we can compare apples to apples. I mean, it doesn't do any good to have two separate data sets. And I don't think we lose anything by generalizing the data or making it more specific, I suppose, than the other argument by having hourly providers provide data in those categories. Does that make sense?

Aaron Jeffers: And Chair Nash, and Chair Nabb to your earlier question about how do we compare, right now I think MAC is the only way we have a direct comparison. But if we are tracking that data in terms of case weights in the national study in those categories with those case weights and also selecting the individual categories of time based on the national study that they break down, then we would be able to compare how much time the attorneys are spending on those. And it's interesting when we're able to look at those categories, either individually or on the whole, what are attorneys spending the most time on according to that data? Discovery.

Jennifer Nash: Yeah. Yeah.

Aaron Jeffers: If you ask me, that's correct, right? That's how it should be. So, we don't have all the data we have yet now, but we already have some indications that, yes, we're tracking this stuff correctly and attorneys are spending their time the way we would expect.

Jennifer Nash: Yeah, I've heard that from law enforcement too, that in the last 10 years, the way that criminal cases are processed across the board has completely changed because

of just the amount of data that is available. Now, you can have a crime scene and have six police officers show up and they're all standing around and you've got six body-worn cameras that everyone has to review – prosecutors, police officers when they write their reports, defense lawyers, certainly. And it's just, we've gone from...we're doing same...and the outcomes apparently look about the same. So, you're not seeing any greater acquittals or convictions or, you know, the statistics are the same. There's just a lot more information that needs to be sifted through.

Aaron Jeffers: That is our experience. And also the number one problem facing an agency like ours that's receiving discovery on a large scale is processing and storing that data. It's really a monumental task for IT and our staff, and it's something that still we're working on all the time to be able to keep up with the volume of discovery data that we receive. I think we could move to the next slide. I wanted to let you see MAC utilization for each of the offices. So, this is from yesterday, I believe.

Jennifer Nash: As of Friday.

Aaron Jeffers: As of Friday. So, this is as of Friday for each of our offices. The total MAC utilization for the Trial Division is 106.61%. For the Central Valley, it's 105.18%. For the Northwest Trial Division, it's 98.79%. And for the Southern Trial Division, it's 118.31%.

Jennifer Nash: Plus the early dispositions.

Aaron Jeffers: Excuse me?

Jennifer Nash: Plus the early dispositions that you're not counting.

Aaron Jeffers: So, the early resolution cases actually with... So, that is one place where because Alyssa Bartholomew is doing them and she's a chief, they don't count towards MAC.

Jennifer Nash: Right.

Aaron Jeffers: So, the chief deputies, so Brian Decker in Portland, me in the Central Valley, and Alyssa Bartholomew in the Southern office, like Metropolitan and MDI where the chiefs do not have a FTE and they don't take cases. We don't have an FTE. We do take cases still, unfortunately. I haven't taken any new ones since the last murder case that I picked up earlier this year, but we are trying to move away from that, especially as the agency grows, hopefully, in the near future. But that is one difference, or at least it's the same as the chiefs for Metropolitan and MDI. So, any case that I'm working on doesn't count towards MAC. Any case that Brian Decker's working on doesn't count towards MAC. And any case that Alyssa Bartholomew's working on doesn't count towards MAC. So, when we're looking at MAC, we're looking at what are our frontline attorneys, what is their MAC? Any questions about

this? And so, we think it's important for this data to be out there and for everybody to see and ask questions about if they want to. And so, that leads into the next slide and Maddy's part of the presentation.

Maddy Ferrando: Yeah, so some of you may be aware, we currently have a dashboard on our website that has both some data on our criminal contractors as well as the Trial Division, but the Trial Division right now shows case types and case weights as they align with the National Standards. But as we've spoken today, we are shifting to looking really just at MAC and the utilization, and we want to be able to make that data public as well. So, this is sort of a screenshot of kind of the draft that we're working on of what the new Trial Division dashboard will look like, really just so people can come here and get some quick summary stats of what their capacity is at. And that's the MAC utilization rates as well as what types of cases they're taking and where they're taking those cases. So, really just some high-level quick summary statistics. It's a dashboard that's filterable. So, if you click on different things, it'll filter the screen by office or by county, those types of things. So, that's in the works and we're hoping to get that up on the website shortly.

Ken Sanchagrin: I would just mention that this screenshot, so it's not live online yet, but with this screenshot, when you have your materials post-meeting, if you could just look it over in a little bit more detail, if y'all have any questions or clarification that you need or any comments because we've not deployed it yet, we would love to hear any feedback. We had a wonderful meeting with Commissioner Harris a couple weeks ago. It really motivated a lot of this work. And so, we'd love to hear feedback from any commissioners to make sure that it's digestible and understandable and it actually covers the items that we'd like to cover. And it actually goes the same for anybody in the audience as well, and the provider community. Like I said, this will be in the meeting materials. And so, please let us know.

Philippe Knab: Sorry, this question's, I think more for Ken than for you, but how does the MAC utilization rate of the Trial Division compare to MAC utilization in the consortium and nonprofits? Do you have that data that you can speak to or compare?

Ken Sanchagrin: I mean, Commissioner, I think one of our goals is to make that much more comparable across our different dashboards, and even one of the conversations we had was whether to integrate with the provider dashboard so that it could be directly comparable there. That may be something we can still do. I think it's important for us to have our own where we can do a little bit more of slicing and dicing because we have so much more robust data than we might for our contractors. But that's what we would hope to do going forward. We'd like to be as integrated as possible into the community. I don't like really making the comparison so much to make it seem like we're something that's separate, but that's why I think that we should have it from both directions. And so, it really depends on the county. And I mean, maybe we'd want to think about it. One of the things I thought was

important was to really break down where we are county by county and be able to filter that way. And so, I think that kind of doing an overall statewide comparison, that's really not apples to apples. It'd be better to do it another way. And so, I think it's a good piece of feedback we could think about as we continue to build this and what that comparison is. My goal as we were moving or talking about the MAC comparison again is to be as apples to apples as possible. Maybe we're a Macintosh apple to a Jazzy. I can't remember all my apple types.

[Laughter]

Ken Sanchagrin: But still we're not apples to oranges anymore. And so, that's something we can do in the future, and we could break it down, yeah.

Philippe Knab: Sorry, let me just... So, right now you don't have the ability to compare the MAC across those different provider types, is that accurate? Or is it just that the data's not necessarily excessively intertwining like you could get MAC data from a nonprofit provider, you could get MAC data from a consortium, but there's like differences? Or is it just that you don't have those same comparators at this point?

Ken Sanchagrin: We certainly could. I think what I was mainly remarking on is if I was thinking about a small consortia in maybe our Douglas County consortium, we would want to compare it just to our Douglas County cases. And so, information that was provided by our staff just now shows the entire MAC utilization for the Marion County office, which would include Douglas County, but I think it would be not an appropriate comparison for me to say right now. And I forget what the past slide was, but if they were at 106% and then Douglas County was at different ones, that would not be an apples to apples. And so, we can. I just don't know off the top of my head what that would be, the answer now, but that's something we could follow up with if you'd like me to.

Philippe Knab: Thanks.

Aaron Jeffers: Any other questions?

Jennifer Nash: No, thank you.

Aaron Jeffers: Thank you.

Jennifer Nash: Thank you, thank you. Really appreciate it. All right, we're running a little behind and I've been just kind of going through the agenda, looking at what we have and because we do need to continue the discussion regarding the attorney performance standards. So, I think what I want to do is we can start that discussion, and I think there's – just looking at the agenda – I think there's plenty of time for us to do that in the time that we have. And so, we'll just push everything, except I am going to

take public comment at 10:05 because people will be scheduled and expect that. We have one person who's going to give oral public comment. But other than that, I'll just adjust the agenda to make sure that we do the things that we need to do including having Mr. Arntt now provide us information about the attorney performance standards.

Steve Arntt: Good morning, Chair Nash, Vice Chair Mandiberg, commission. We sent you the attorney performance standards back in August. I think everybody would take a little bit more of a chance to – ah, thank you – had a little bit more of a chance to look at those. I know we had some concerns that perhaps the standards had language in them that I believe we called best practices or something like that. I presented a memo that outlined some options. You may have other options that work, perhaps keeping these as they are, perhaps dividing out what we have called best practices and make them a different aspirational document. I'm back before the commission kind of looking for some guidance on how we can draft those in a way that would meet with your satisfaction.

Susan Mandiberg: I think I was one of the ones who was most concerned about that. And I think the standards as they're drafted are good. I don't have any complaint about anything that's in the standards. And I liked the way you describe what best practices are in your introduction to the materials, to the actual best practices thing. I would like to see your explanation of what you mean by best practices to be part of the actual document as opposed to... And my concern again is, I like to think about worst case scenarios, right? [Laughter]

Steve Arntt: Mm-hmm. Well, that's kind of what we do. [Laughter]

Susan Mandiberg: That's kind of what we do, right. So, we spend a lot of money being trained to be this way, right? So, if, for example, somebody were to sue a lawyer for not having done one or more of these best practices, I would like your explanation that these are not requirements. The words that you used were great in your explanation. I would like that to be in the actual best practices document instead of hidden in the legislative history, so to speak.

Steve Arntt: Okay.

Susan Mandiberg: Because in the way you gave it to us, it's just legislative history. It's not a formal part of the document. And I think that our providers will be more protected if that explanation is in the actual best practices document, which would be what someone might use as a basis for a lawsuit. So, bottom line for me is that that has to be in there as the explanation. Another thing that occurred to me, I don't think you need to change it and do it another way. I think this is a good way to do it. But is there another thing to call it other than best practices? Could you call it, for example,

aspirational guidelines or case-specific aspirational guidelines or something that, again, further clarifies what these are all about?

Tom Lininger: Vice Chair Mandiberg and Mr. Arntt, I actually thought a lot about that question. And first of all, I agree that the structure is good. I would go for option A if these three options were the only choices. But I agree with Vice Chair Mandiberg that there's value in clarifying, as you do in the footnote in your cover memo, that these best practices standards aren't for discipline, and we need to have that in the body of the rules. But I was just thinking of different titles because best practices connotes that it's universal. So, I wonder if you might say "best practices in most cases" or as ethics codes often do, simply say "commentary." And if you say commentary, then it's very clear that that is just illustrative, that the black letter law controls.

And I do think if anyone is interested in omitting entirely the language now under the title best practices, I think Oregon's already experimented with a very reductionist body of attorney rules. I mean, our disciplinary rules for the whole bar used to be the bare bones, do's and don'ts. And Oregon decided we need this interstitial detail. And so, Oregon switched from that model. So, I surely don't like your other two options that would omit this helpful detail, and I commend you and the others who prepared this language. I would just love to see it labeled differently. And so, my first choice would be commentary. Second choice might be best practices in most cases. But best practices just seems too prescriptive to me.

Susan Mandiberg: I would say that the only one of the actual best practices that brought me up short when I read them was standard 1.3, the best practices number two. And it says a lawyer must appear personally for all critical stages of the case. I agree that that's probably what somebody should do, but I can imagine situations where that's not possible. And if personally doesn't include virtually, that's an issue.

Steve Arntt: Yeah. Highly aspirational.

Susan Mandiberg: The "must" there doesn't sound aspirational to me.

Tom Lininger: There are many such examples. Never confer with the witness except in the presence of a third party. Generally good rule, but most attorneys have violated that rule as necessity dictates or never stipulate on evidence unless it's clearly in the best interest of your client. I think a lot of practitioners would say, well, even a more neutral scenario might warrant stipulations just to get yours consented to by all the other attorneys. I just feel like the illustrations are not so plainly valuable for every single case. So, we need another label.

Susan Mandiberg: Other than that, I think this is great. And I think you've done a great job pulling this together and working with practitioners. Really appreciate all the time you've put into this.

Steve Arntt: Thank you, ma'am.

Jennifer Nash: Agreed. And I've just noticed the two law professors that are...

[Crosstalk 00:49:18]

[Laughter]

Jennifer Nash: So, you know, for what it's worth.

Susan Mandiberg: I have a practice. [Laughter]

Jennifer Nash: No, I know, just I find it very interesting. Any other comments or just general concerns or questions? Doesn't look like it. Well, that went a lot faster than I thought it was going to, but I think that's really a testament to all the hard work that you've done. So, do you feel like you have some pretty good direction about where you need to go from here?

Steve Arntt: I feel like I have exactly what I need, and we should be able to have these back before the next commission meeting.

Jennifer Nash: Wonderful. Well, thank you very much and we appreciate it.

Steve Arntt: Thank you.

Jennifer Nash: All right. We are right on time. So, why don't we just take a little break? How about that? We can come back in about five minutes and then we'll just start the meeting. All right. Thank you.

[Break]

Jennifer Nash: All right, I think we're ready to get started. That didn't go as well as I hoped, to only take a five-minute break, but...

[Laughter]

Jennifer Nash: I learned my lesson. All right. We are back, beginning the public meeting portion of the, or the official meeting portion, I should say, of the Oregon Public Defense Commission meeting. We will start with public comment. We received a number of written comments, some received after the meeting last month, that were included,

and that is from Angela Russell, Mikayla Avery, Thaddeus Betz. And then we received one written comment, actually two written comments pertaining to today's meeting, one from Glenda Harter, and then one from AFSCME, which was submitted actually after the deadline and will be included in the meeting materials subsequent to the meeting. And we have one request for oral public comment, and that's from Caitlin Plummer. Is Caitlin on the video? Okay. There she is. Wonderful.

Caitlin Plummer: Good morning, sorry about that. [Laughter]

Jennifer Nash: That's okay, good morning.

Caitlin Plummer: Good morning, Chair Nash and members of the commission. My name is Caitlin Plummer, and I'm the executive director of Public Defender Services of Lane County. I'm also a member of Public Defenders of Oregon. Thank you for the opportunity to comment this morning. I'm here to comment regarding my concern about how the contracts that are currently being rolled out will negatively affect the unrepresented crisis across the state.

Jennifer Nash: Ms. Plummer, I'm going to interrupt you for one second. Can you check the audio? We're having a hard time hearing her. Okay, just a second, you're coming in very faintly. I want to make sure we can hear you.

Caitlin Plummer: No problem.

Jennifer Nash: Can you say something else?

Caitlin Plummer: How about now?

Jennifer Nash: Now? Oh, hold on, we're still working. I think it's us, not you, so give us a second.

Caitlin Plummer: Okay.

Jennifer Nash: We're going to get some feedback if we do that. All right, can you say something?

Caitlin Plummer: Is it better now?

Jennifer Nash: Oh, yes, thank you. You were coming through a laptop for some reason. All right, go ahead, thank you.

Caitlin Plummer: Thank you. Just to repeat the last portion of what I said, I'm here to comment about the contract changes that are currently being rolled out and my concerns about how they could negatively affect the unrepresented crisis across the state. Within the last several weeks, contractors have been given numbers regarding the actual number of FTE that will be funded in the next contract. There are several concerning

things about these numbers, and I'll focus on three in particular. First, nonprofit offices have been told that the final policy regarding supervision funding is that OPDC will not be funding supervision for Level IV attorneys. This means removal of supervision funding for nonprofit offices that existed within the last contract. This is the case for my office and many others. In some offices, this could result in layoffs of public defenders.

Second, in addition to cuts to supervision funding, providers both in counties that do and do not have unrepresented crises, there is also a reduction in MAC FTE being funded, meaning OPDC is removing funding for existing attorneys in these offices, which will also likely result in layoffs. Third, contractors are being told, and this is not an issue in my office, but from what I understand because we don't have SPPE candidates currently, but contractors are being told that funding for SPPE candidates will also be cut by 85%. Contractors will be paid about \$37,000 per year for these employees to cover overhead, salary, and benefits, which will also likely result in layoffs because it's simply not possible to employ people with a livable wage with that level of funding. Forcing contractors to potentially be in the position to lay off public defenders during a time when there is a public defender shortage in this state is extremely destabilizing to the workforce and counterproductive during a time of crisis.

All of this will also result in the increased pressure on the remaining public defenders and increased burnout. Nonprofit offices in particular put a significant amount of money and work, which we are not compensated for, to recruit and keep people in this profession. For young attorneys, being able to see a career in front of them that lasts beyond the next biennium is extremely important. Not only does cutting positions result in an immediate reduction of the workforce, but it creates an enormous disincentive for newer attorneys to enter the profession, building up their skills only to have the rug pulled out from under them in the next biennium, or even sooner if a contractor dips below 90% of their MAC utilization during any two single months during the contract.

These changes will also negatively affect clients. The change in supervision funding provides an example of how. Level IV attorneys still need supervision. Their clients are facing the most serious charges, potentially spending up to the rest of their lives in prison. It is imperative that attorneys doing Level IV work have appropriate oversight, given the catastrophic consequences for their clients if they are not. Level IV attorneys can appropriately supervise other Level IV attorneys. There is a wide range of experience and skill within the Level IV tier. Supervision is also a skill that is distinct from lawyering. Having a supervising attorney with dedicated time to supervise these attorneys ensures that quality work is being done on these extremely serious cases. Having supervisors available for Level IV attorneys at nonprofits is also deeply important for the retention of these attorneys. Supervision is not just about reducing errors, but about providing training and support. It is an

extremely weighty responsibility to represent someone facing these sorts of serious consequences, which I'm sure many of you understand and have experienced.

Without the benefit of meaningful supervision, Level IV attorneys will leave the profession at a faster rate, and the investment of time and energy it took them to get to that level will be lost and the unrepresented crisis will worsen. I understand the difficult budgetary picture that OPDC is in. I really do, but I would urge OPDC to reconsider these policies because of their potential to worsen the crisis. I fear these changes may also create problems in counties where they do not currently exist. Again, I am sensitive to all of the pressures that exist within the system, but I am concerned that these changes could have a detrimental effect. Thank you for your time and the opportunity to comment this morning and your commitment to public defense.

Jennifer Nash: Thank you, Ms. Plummer. And I will just note for commissioners that during Director Sanchagrin's update, he's going to talk about the current contracting state and the various things that are happening with that. So if you have questions about that, that would be the time to talk with him about that. All right, moving on next to the unrepresented persons in Oregon courts, Director Sanchagrin.

Ken Sanchagrin: Thank you, Chair. Mara, we can go on to the first slide. So, what we have here this month is again, kind of our standard update for the unrepresented persons crisis, and I'll go through these slides and talk a little bit about what we would like the future to look like when we provide these updates monthly. So, what we continue to see statewide, particularly when we look at comparisons over the last several months, is declining numbers in the unrepresented crisis that are being primarily driven by many of our crisis counties seeing some gains, particularly in the in-custody and out-of-custody numbers that we're seeing. And so, let's go to the next slide. A lot of those gains that we're seeing, just like we talked about last month, are being found in Marion County and in Jackson County.

As a follow-up to last month's meeting, I provided some additional information on Marion County broken down by provider type to try to isolate what we see that's happening within the county. And what we're hoping to do in the future, or not hoping to do, what we're planning to do for our October meeting to begin is to provide more granular information county by county as to what may be driving the different trends that we are seeing. And so, to supplement what we talked about last month for Marion County, I'll focus on Jackson County. I don't have as much detail on Jackson County as I did for Marion, but what we're able to see when we were looking at the reductions that we're seeing there, I think a lot of what we're seeing, we can attribute to some of the work that we've talked about during our initial workload, or our initial work session this morning and a lot of the efforts of the Trial Division and preventing cases from ever getting onto the unrepresented list as they are resolved at arraignment. But we also did increase our FTE at Los

Abogados, 1.898 FTE were added in April, May, and June for that provider. And also, we know that our contractors in Jackson County in 2025 are just taking more cases on average than they did in 2024. And so, it really is the hard work of our providers down in Jackson County that are helping to lead to that reduction.

We are seeing challenges in some of our other counties, however. The reductions that we're seeing in Multnomah County, at least when I look at the visual, I see them as plateauing a little bit, and so that's an area that we really need to focus on. I think that as the chair commented, we also have some work to do in Washington County and that's an area that I plan to follow up on with some of the leaders in Washington County coming up in the next few weeks. Also in Douglas County, we continue to see little progress, at least compared to our other counties, but we do have some meetings scheduled. Many of the concerns that we have in Douglas County are not necessarily with the court, for example. They might be with even things, we talked about a lot actually during the work session, about the number of hours that it takes to work through different types of cases.

And we know that we have a lot of challenges in the Douglas County jail, for example, that will lead to our attorneys oftentimes spending four hours driving down to the jail, four hours driving back, and not actually getting to meet with their client [Laughter] once they arrive at the jail. And so, I actually have a meeting today with some folks, some statewide folks from the chiefs and sheriffs and the DAs, just to begin conversations about what we could do to try to address some of those issues. And so, overall, the picture is looking I always think cautiously good. I'm always waiting for the other shoe to drop, but at least we're moving in the right direction, which we have not seen in quite some time. Next slide, please.

We also have the THIP overview that we've been providing each month. As a reminder, THIP did end as the new biennium began; however, any case that was assigned prior to the start of the new biennium could still be counted as a THIP case. We have seen a large number of invoices come in for THIP as we moved into the new biennium. We think that's mainly motivated by folks who are just worried about we have a finite pot of money for THIP and trying to get those invoices in early. And so, that's something that we've seen, and certainly when Ralph gives his budget update, if you have questions about that, I know that he can answer those in more detail. Next slide, please.

We also have our Betschart case assignments here. I've not heard, at least from staff, that we've had greater challenges with Betschart. Since the ending of THIP, again, it does seem that we have had some attorneys who are no longer willing to participate in our program, or in our different hourly programs, because of the end of THIP, but our assignment coordinators have still been able to largely meet the demand that they have had. And I forget if we have one more slide or if that was it. Yes, here.

And then we have our Oregon Trial Division information here and our contribution to the unrepresented crisis. But as I mentioned, what I'd really like to do is expand this beyond just the summary slides in the future. It may mean that you have to hear from me a little bit longer during the meetings, but I'd like to provide more granular information for you, similar to what I provided at the end of last meeting. And so, as we begin to build this out, similar to my request about our dashboard for the Trial Division, if you all as commissioners have detailed information that you would like to see or anything you'd like us to add as we revamp, please send those to me as soon as you can, and hopefully we can get those in for October. And if not October, then for November.

Jennifer Nash: I think that would be great. Thank you. And I will say, I also very much appreciate Ms. Taylor's reports that she sends us about the unrepresented.

Ken Sanchagrin: Ah. Thank you.

Jennifer Nash: And not just us. I mean, they go to a wide variety of people, including us, but I think that the data that she includes and the manner in which it's presented is very compelling. And some of that data is a little more granular, some of it's more general, but I find that I am able to glean a lot more information about just overall trends and kind of where we are in comparison to where we have been from those reports. And so, maybe kind of somehow...

Ken Sanchagrin: Certainly.

Jennifer Nash: ...combining those two data points and presentation would be helpful. I think it would be helpful to our outside stakeholders as well.

Ken Sanchagrin: Yeah, thank you, Chair. I appreciate those comments. That's something that Ms. Taylor and I have been working on since I arrived to move to more visual representations of the crisis, as opposed to just numbers. A lot of folks, I mean, even my eyes go a little cross-eyed sometimes when it's just numbers across a page. And so, a combination of visuals, then also really what is the story we're telling. And certainly in the coming months, so we revamped the statewide sheet of that report this month, but we're hoping to add that to each county to have it look similar and then to have a full page on our Trial Division as well.

And so, we're trying to roll this out somewhat slowly so we can take feedback, but my goal is, I'm happy that basically we're meeting what my goal would be based on your comments. And I agree, we'll integrate those in. I think what I would like to add during the meeting when we can talk about it verbally is a little bit more of the why. That's a little bit harder. And we don't want to go too detailed and give out like a 30-page [Laughter] monthly summary. And so, I think that's the descriptive data, this is

what it is, and then we can talk about the why in the meetings. I think that'd be a great way to actually leverage both together.

Jennifer Nash: I think so too. And that's actually one of the things, I mean, there's usually just a little tiny blurb in each one of the counties about why, you know, our thoughts about why we're seeing the trend the way we are that month, either up or down, and I find that particular information to be very helpful. And also including the increase in case filings, I think, is really important too because we're holding our own and/or bringing the numbers down while the case filings are going way up, and I think that's a really important piece of information...

[Crosstalk 01:17:15]

Ken Sanchagrin: I completely agree. And I think that's actually an important note as well. So, OJD is going to be wrapping up its unrepresented case monthly releases. Now that we have robust data to do that reporting, they don't necessarily feel that they need to be in the same sphere kind of creating oftentimes duplicative information, but whether it's the case filing, the monthly case filings is what I'm most interested in, but then also the monthly cases coming in versus cases going out. What we've really seen since May of this year is those have gone in the opposite direction that they've been in for almost a year, years before that. And so, we're also working with OJD data folks to make sure that on our end, we can continue to report some of that essential information.

And then too, I think it'll be really good for us internally to be able to leverage that information. So, for example, for the cases in versus cases out, breaking that down by county is something I've wanted since I arrived at the agency because I think that will also... That's the canary in the coal mine that we can see when those trends could flip in one way or another. And if we are armed with that information, then that can really be helpful to us, especially if we're thinking about things like how much FTE do we need to have in a county? How much MAC do we need to have in a county? That will help us a lot.

Jennifer Nash: Also, I think sometimes those things are, it's very helpful to have a county by county because also with that particular data, sometimes those things can be directly linked to things that are happening that are unique to that court system. Oh, we have a judge that went out on leave and so no cases have been processed for this court, or the district attorney's office lost five DAs or whatever. So, I think it's helpful. You're right, it's the canary in the coal mine, and it's helpful to be able to say, "Hey, wait, this data is showing something, why? Why is that happening?"

Ken Sanchagrin: Exactly.

Jennifer Nash: Thank you, that will be very helpful.

Ken Sanchagrin: Thank you, Chair.

Jennifer Nash: All right. Any questions or comments by other commissioners? All right, perfect, thank you. Moving on next to the budget presentation, Mr. Amador.

Ralph Amador: Good morning, Chair Nash, Vice Chair Mandiberg, members of the commission. My name is Ralph Amador, I'm the financial officer for the commission. I have before you this month's budget presentation and this is for the month end of July, basically because that's how it ends up. And as we're talking about all these attempts to do graphical presentations, I come at you with spreadsheets.

[Laughter]

Ralph Amador: We will try to in the future make them more jazzier.

Jennifer Nash: This is actually – you may remember that you had them very jazzy and we asked for them to be simplified – so this is actually very helpful, I think commissioners find this very helpful. What's going in, what's going out, simple, to the point. And if you have to give us more information about that, that's nuanced, you can do that, but I don't think you have to jazz this up for us. Thank you.

Ralph Amador: Thank you, Chair Nash. So, at this point, there's not a whole lot of activity happening on the budget side. We have just one month's worth of actuals that's been recorded in the system. Of note, as we go through these, you'll see the only thing that's planned right now is the DAS unscheduled amounts as a reduction because that money was recommended by the legislature to be unscheduled by the Department of Administrative Services and held back. We have to do a report in the February session that compares contracted to our Trial staff and making sure everybody's at 90% capacity.

Jennifer Nash: And to just put a finer point on that, the legislature has not given us that money, and if contractors don't meet the 90% MAC, we're not getting it.

Ralph Amador: Well, it's not as nuanced as that. It was appropriated to us. So, it's different than what happened a couple years ago when they didn't give it to us. They gave us the budget. They just instructed DAS to unschedule it, means to put it aside. And so, then it is in our budget, but it's set aside. So, we're contracting as though we have that. And you are correct. If we don't turn in a report that is to what the legislature's expecting, they can request that DAS not, I'm sorry, Department of Administrative Services not give us that funding. So, next slide, Mara. The Juvenile is the same. Yeah, there we go. Same thing. We have our basic expenditures for that month and an unscheduled amount of \$2.3 million, leaving us an amount. And over the next few months, we will be putting the contract payments in there as far as what we're

planning to do for the biennium, and we'll be showing you quarterly figures as well because as we go into the executive branch, we are subject to an allotment process, which means we are only given our funds on a quarterly basis, which is planned throughout the entire biennium. So, we actually have a spend plan that we have to follow every quarter. So, we'll be sharing that with you as well. So, just so you'll be aware of what we can do, what we can't do.

Jennifer Nash: Can you talk about that a little bit more? Because I know that I've received some questions from providers about that allotment process because there were some communications that went out about not being able to pay bills because of the allotment. Can you just kind of talk about that a little bit?

Ralph Amador: Oh, yes, Chair Nash, I'd be happy to. So, what happened this particular month was that because when we were in the judicial branch, we were appropriated all of our authority upfront for the biennium, and we spent it as we needed to spend it. Now we're in the executive branch, the Department of Administrative Services holds our authority and gives it to us in quarterly allotments. Because we were new to the executive branch and new to this process, they took a percentage of our eighth quarter and said, "We think this is what's going to happen," because we were under a continuing resolution until our budget was passed. So, they said, "We don't have a history with you, so we're going to guess." And they gave us the opportunity to change that because we were supposed to give it, like we're preparing our second quarter allotments now, so we'll be able to see what we're spending in our second quarter. But the confusion was that we didn't have a THIP appropriation before. So, they just said, "We think this is going to be this much." And so, they just put a figure in there so we could get moving and start paying bills.

As Director Sanchagrin mentioned earlier, we got a lot of THIP bills in. A lot that we weren't expecting. And so, then the money that was allocated to that wasn't there in that money. We had it in our budget. It just wasn't available for us to run through the system. So, we had to go through a process of figuring out what we think we're going to spend and then go at that point. And again, we didn't see it until it happened. And then it took a few days for it to actually go through the process of submitting a request to the Department of Administrative Services, it goes to their state system. Then we have a CFO, a chief financial officer analyst who approves the actions happening. And then it goes through the system, and it has to process overnight. All the state systems have to process overnight for anything to happen. So, that was what? It was a couple days delay for getting bills out there.

Jennifer Nash: So, basically what you're saying, translating from Ralph to English...

[Laughter]

Jennifer Nash: Basically what you're saying is that because we were new to this DAS allotment process, DAS guessed about how much money we would need and the amount was insufficient. So, we had to go through a process with DAS that's already been set out to say, "You didn't give us as much of an allotment as we need. We need you to give us X number of dollars back so we can pay these bills." And that took some time.

Ralph Amador: Chair Nash, yes.

Jennifer Nash: Okay.

Ralph Amador: That is the correct translation of what I was saying.

Jennifer Nash: Okay. All right. And that's been resolved, and we anticipate that that problem will not occur in the future. And if it does, we know what to do. Okay.

Ralph Amador: This is true. And just to be fair, we weren't the only, the reason why it took a while to get things through because we weren't the only agency this was happening to. During the first quarter allotments, there's tons of shifting back and forth just because of the carry forward and everything that's happening. So, it was new to us.

Jennifer Nash: All right. Thank you.

Ralph Amador: Mm-hmm. Parent Child Representation, again, same monthly expenditures. There's an unscheduled amount in this program as well. And then Trial Representation Division, this is our state attorneys. Again, they have an unscheduled amount in there of a million dollars, and I think that's about all of the unscheduled amounts. Preauthorized expenditures were, again, they were high at \$5 million for the first month, which was a result of the THIP expenditures coming in, which we weren't really expecting to happen, but we rectified that. Again, like I said before, all these planned amounts will have the planned amount for the biennium once we go forward. Right now, we're in the budget process of reconciling what the legislature gave us, reconciling it in our state systems so that we can make sure that everything's lined up in our budget reporting that goes forward. Court Mandated Expense. Again, we saw a large amount of funding that went through there for, again, mainly towards the THIP expenditures, hourly expenditures that were going through there. And there was just folks, we got some fairly large bills of people that had held them for six to eight months and were just like, "Ooh, I better get this bill in." So, it was not something we expected.

Appellate Division, normal expenditures for that area. Nothing big there. CAP, the same way, normal monthly expenditures going through there. Nothing to see a lot there. Administrative and Executive divisions, they're combined because they're so similar. But again, normal expenditures, nothing to see there. One thing that we will see, it looks a little high for this compared to the other ones, is because we have to

pay for our FCMS expenditures upfront because we got some bond funding and other funds, and the bond sale doesn't happen until March. So, until then, we have to pay for these expenditures for the staff and the contracts and everything out of our General Fund, and then we request that other fund money, and then we just do a kind of a swoopy-swap thing and make sure it's all good and in the right categories. So, this one will look a little big going forward until we start getting money down from the sale of the bond. Which goes into Financial Case Management System. There are no expenditures there because that's other funds and we don't have any money to spend there yet. Special contracts, programs, distributions, this is where we have our money for our DRO, Disability Rights Oregon, our guardianship program's in here. We have our discovery program in here, and we have our law school program in here, in this area here. There's just relatively little expenditures that are happening there, basically from our contract with DRO.

Philippe Knab: Sorry, I'm sorry. Can I ask what was the fiscal case management system?

Ralph Amador: The financial case management?

Philippe Knab: Yeah.

Ralph Amador: I'm sorry, Commissioner Knab. The Financial Case Management System, that is the new software that we're installing for the agency. It is an IT system that we've been working for about six years now.

Jennifer Nash: Forever, yep.

Ralph Amador: And we're getting through that. Right now we're in the... And you'll have a presentation on this, I believe, at the end of this meeting to talk about that and give you the update of where we're at. But that's so where people go in and all the activity will be handled for the agency through that system. The cases, money, payments, everything goes through there.

Philippe Knab: And did I read that right, that it was \$17 million?

Ralph Amador: Seventeen million dollars. Yes, sir.

Philippe Knab: That seems like a lot, but.

Jennifer Nash: Across the board.

Philippe Knab: Yeah.

Jennifer Nash: For all providers.

Philippe Knab: For everyone across the board.

Jennifer Nash: For everyone across the board and it's going to track cases, money in, money out, time tracking.

Philippe Knab: And is that a one-time investment or, I mean, or is it an annual investment?

Ralph Amador: That is our upfront investment to get the system bought, paid for, up and running. We're supposed to have it done by the end of this biennium. There will be annual costs for operating and maintenance that'll happen and then staff that we have to carry it forward to make sure it runs appropriately. So, there will be operating costs that we will ask for in a policy option package for the '27-'29 budget.

Philippe Knab: Thank you.

Ralph Amador: Of course. Last thing is just a summary of where we're at, what we've spent. The planned amount, again, that equals the hold back from DAS and then leaving us where we're at. You'll see that on the very last page is a very complicated, very cumbersome, what you did not want to see, but is in there to show you everything in there just to display where our actual money is. On the right-hand side, you see a thing called SCR, that's our summary cross reference. That's our top level of what each of our divisions are, is that in our budgeting system. And the appropriation is the area that it was given money for. And again, I apologize for the smallness of this, tried to make it as big as I could, but this is put in there so you can see what the purpose of each of these appropriations is, what the budgeted amount is, what the unscheduled appropriation amount is, and then available. And this allows you to see things like where we have THIP money separate from the main appropriations in Court Mandated Expense and Preauthorized Expenses. We have FCMS. The top part is General Funds. So, we have FCMS, we have training dollars in there and a position in there. If you look at the 700 series, you'll see Special Programs. That's the money specifically that we have earmarked for each of those three programs – guardianship, discovery, and the law school programs. Debt service is a General Fund expenditure. They give us that money to pay debt on the bond.

And then when you get into the other funds, this shows you things like Title IV-E, which is the federal money that we draw down as other funds to supplement our programs. For Juvenile, we have money for IV-E and Preauthorized Expenditures for those appropriate expenditures that are spent on children. Court Mandated Expense the same way. You'll see in the other funds, ACP is the Application Contribution Program. That's for people who apply for qualified public defense through the judicial system, there's a contribution that comes in. So, we receive the money from the system and then we push it back out to OJD so that they can pay their staff to do that work. So, it's just kind of a pass-through. And we get about

\$800,000 for doing that work from them. And then the last things on there at the bottom, the FCMS, we have 13.8 million in money allocated to actually get the system up and running. And then the rest is just money to pay for the administrative contract purchases of selling the bond.

Jennifer Nash: So, I think this information would be really helpful to have in the materials before the meeting. So, if we have questions about it, we can ask you about it during the meeting, but it's hard. I mean, I can't even read it on the screen and it's just because it's small. And I mean, you're right, there's nothing you can do about that. But if we had it beforehand, then we would be able to say, "Hey, can you tell me what this is? Can you tell me what that is?" That would be helpful.

Ralph Amador: Chair Nash, that would be the plan for going forward. I just wanted to introduce this to you so you can see it.

Jennifer Nash: Thank you.

Ralph Amador: And again, there'll be other information to show where we are in the allotment process as well.

Jennifer Nash: That's wonderful. And you said, as I wrote down, it would be helpful to have a projection for the end of the biennium. And you're saying you're going to include that in the future, so that would be very helpful, especially this early in the biennium. Thank you. Are there any questions about the budget presentation? Are you... Oh, good, I was going to say.

Ralph Amador: I'm good. Yes.

Jennifer Nash: I didn't know if I cut you off. All right, thank you. That was very helpful, and I appreciate the work that you're going to be doing for us in the future, so that we have a very clear idea about where we are with the budget, especially given the precarious nature of that in the next few months and/or years. So, thank you. All right, moving on next to an action item that we have for preauthorized expense policy and the routine expense policy. Mr. Amador, I will say is, by way of introduction, and Ms. McClelland, by way of introduction, we talked about these. We had a briefing on these in a prior meeting. And then in our work session earlier this month, we reviewed these, and it sounded like commissioners did not have any questions or concerns. That doesn't mean you can't raise them today, but I'm just summarizing. These are really housekeeping matters to change language in the policies to make sure it's consistent. This is not changing the travel payment issues that we've been talking about. This is just to address the language cleanup and the usual making sure that the policies are consistent. So, with that, Mr. Amador.

Ralph Amador: Thank you, Chair Nash. Once again, Ralph Amador, financial officer for the commission. And I have on the screen, Kristen McClelland, who is lead program analyst for PAE, Preauthorized Expense Unit, and she's a subject matter expert on this. So, if there's any detailed questions that I can't answer, she would be the person who could just rail it off for us like it's nothing. As a bit of a background, like Chair Nash said, these policies were last updated December of 2024, and we are bringing these every six months or as changes are needed to get policy clarifications and updates.

Jennifer Nash: I don't think I'll have you run through this summary.

Ralph Amador: Okay.

Jennifer Nash: Because it's in the materials and we've seen it a few times, unless anyone has any specific questions. All right, I'm just going to call for a motion. I need a motion to recommend that the commission approve the proposed changes to the preauthorized expense policies as outlined in our materials, which will be effective October 1st, and they will supersede any prior policy.

Alton Harvey Jr.: So moved.

Jennifer Nash: Is there a second?

Tom Lininger: Second.

Jennifer Nash: Okay. We have Commissioner Harvey who made a motion, Commissioner Lininger who seconded it, and we need a roll call vote.

Mara Hoaglin: Chair Nash?

Jennifer Nash: Yes.

Mara Hoaglin: Vice Chair Mandiberg?

Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Harvey?

Alton Harvey Jr.: Yes.

Mara Hoaglin: Commissioner Knab?

Philippe Knab: Yes.

Mara Hoaglin: Commissioner Harris?

Rob Harris: Yes.

Mara Hoaglin: Commissioner Lininger?

Tom Lininger: Yes.

Mara Hoaglin: And online we have Commissioner Lipscomb?

Paul Lipscomb: Yes.

Mara Hoaglin: Thank you.

Jennifer Nash: All right, motion passes. Thank you. Next, we'll move on to the proposed changes for the routine expense policy. And are there any questions about the routine? This is the same, just cleanup language, make it consistent. Any questions or concerns about the proposed changes for the routine expense policy? All right, I'll entertain a motion to approve the proposed changes to the routine expense policy as set forth in the materials provided to us effective October 1st, 2025, which will supersede any prior memo or policy.

Susan Mandiberg: So moved.

Jennifer Nash: And is there a second?

Philippe Knab: Second.

Jennifer Nash: Okay, Vice Chair Mandiberg moves and Commissioner Knab, no K, seconds. Can we have a roll call vote, please?

Mara Hoaglin: Chair Nash?

Jennifer Nash: Yes.

Mara Hoaglin: Vice Chair Mandiberg?

Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Harvey?

Alton Harvey Jr.: Yes.

Mara Hoaglin: Commissioner Knab?

Philippe Knab: Yes.

Mara Hoaglin: Commissioner Harris?

Rob Harris: Yes.

Mara Hoaglin: Commissioner Lininger?

Tom Lininger: Yes.

Mara Hoaglin: And Commissioner Lipscomb?

Paul Lipscomb: Yes.

Mara Hoaglin: Thank you.

Jennifer Nash: All right, the motion passes. Thank you very much, Mr. Amador.

Ralph Amador: Thank you.

Jennifer Nash: All right, moving on next to the KPM results, Ms. Freeman and Ms. Ferrando. Thank you. And KPM is key performance measures.

Kim Freeman: Good morning, Chair Nash, Vice Chair Mandiberg, council...commission members, excuse me for that, commission members, and Director Sanchagrin. For the record, I'm Kim Freeman. I'm the Compliance, Audit, and Performance Manager. And with me today, I have...?

Maddy Ferrando: Maddy Ferrando, I'm a research analyst.

Kim Freeman: So, we're here today to share with you our annual key performance metrics, measures that the agency is required to do every year and then specifically talk a lot about our customer service survey. And thank you to Mara for helping us with the slides. So, we're going to talk, what is our annual performance progress report, also known as our key performance measure. We're going to go in depth to the five key performance measures we have and then share our stakeholder feedback with you. Next slide. Next one, please.

We have lots of things in here. So, for commission members that are new, our annual performance progress report, the definition is a primary expression of the agency's performance measured against legislatively – sorry, not enough coffee today – approved key performance measures known as KPM. So, you'll hear the word KPM a lot today. This report is due every year by 10/1. All of the reports for

our agency and other agencies are listed on the link here on the slide. So, you could look at OPDC's previous reports by years, you could look at Oregon Housing, you can look at the Liquor Control Commission, you can look at other boards and commissions, which I looked at last night to look at how other agencies' key performance measures are. So, everything is listed there and it's all by year. So, if you need something to do, it's pretty insightful, [Laughter] which I'm sure you do not. Next slide, please.

All right, so here's our five key performance measures, and these measures have been in place since 2016. So, we have one for our Appellate Division, listed here what the definition of that, our customer service policy or customer service survey, and what we're striving for is good or excellent. We have best practices for boards and commissions that Vice Chair Mandiberg completes, and she'll share more information about that later. We have our trial level representation. And so, this is all of our contract attorneys. We survey them to ensure that they've completed 12 hours of continuing legal education or also known as CLE. And then we have our Parent Child Representation Program. Next slide, please.

And I want to talk a little bit about our stakeholder engagement. This is something that the agency did again this year. We conducted stakeholder engagement on three of our five KPMs. For those of you that have been on the commission for a while know that the last couple years, this is new back to the agency. For several years prior to two years ago, the agency hadn't done any surveys to get results on how we're doing from customer service, our CLE, or even seeing how the board is doing. So, I'm pleased to say that we've done it again this year and we've made some improvements, which we'll share with you today. And so, this is just really a highlight. Of the three KPMs that we've done, stakeholder engagement, you've all completed your survey. We sent a survey out to our contract attorneys that went to 928. So, we have a response rate of 28% there. And our customer service survey went out to 1,423 providers and more to come on that with a 15% response rate. So, some of you who really know about surveys know that our response rate there is pretty high. So, we're pretty pleased with that. Next slide, please.

And I'm going to call on Maddy every once in a while here too because Maddy was gracious enough to compile all of the results for us, but just really some highlights here. And what I want to share before we kind of dive into the customer service survey is one, I want to thank everyone who responded because I don't know how many of you get a survey pretty often to complete, and you're like, "Yeah, I'll get to it later. I'll get to it later." And maybe if you start it, you go, "Eh." But I really want to thank everyone that did respond because they provided some really valuable feedback, which we're still looking at. And I want everyone to know that the feedback that they did share, we are looking at. There was some very candid feedback that we received and I appreciate that. A lot for process improvement. Items which I'll share a little bit more, but I really want to thank the policy team for

the work on creating the survey, which we're going to go into a little bit more, Maddy for doing the results, and Mona for helping me navigate that, the actual KPM legislative portal, Chair, Vice Chair Mandiberg for completing her part on the commission, and just everyone that provided information to responding to the Trial Division survey.

So, here's just kind of some overall results of this slide particularly. We broke it out by vendor. So, you can see we have contract attorneys here. We have vendor, hourly, and then years of service. So, this is really important, I think, for us to measure how long some of our providers have been providing public defense. So, 61% of our respondents were over 10 years. So, it's just a nice breakdown.

One thing we did add, we added a couple more questions this year. So, last year, we added the current role and how long you've been in your current role. This year, we added some additional questions. What area of defense do you spend most of your time? Which you'll see that kind of throughout. How do you serve as an attorney for OPDC? Are you a contract attorney? Are you an hourly attorney? Or is your time split evenly between contract and hourly? Then we also asked a question about providing services in one or more of our crisis counties. Since we have a crisis, we thought it would be interesting to have some survey results around who's providing those services in our crisis counties. We added three additional questions to the end, specifically to give OPDC feedback on how we can improve our customer service. So, we have a lot of information there. And as you can see, we have a 5% increase of respondents from last year. Next slide. This is just a summary here, and I'm going to turn it over to Maddy and kind of let her talk about this, some of the differences here. This is really Maddy's expertise.

Maddy Ferrando: Yeah, so the survey asked six questions and they're the same six questions that we have asked in the past when we've done this survey. And so, later the following slides will break out each question individually, but you can see in the table. So, for each question that you could respond if you thought you either agreed and thought we were poor, good, excellent, or fair. Sorry, so it's poor, fair, good, or excellent. Excellent being the best. And if we weighted them based on excellent being worth four points and poor being one. And so, that's kind of the numerical average that you can see in the table, but you can see across every question that we were rated slightly higher this year compared to when we did the survey last year, and the one with the largest increase was both the overall quality of services and the timeliness of services. So, there was improvement across all questions, and you can see that by the average. Next slide.

So, the first question was, how do you rate the ability of OPDC staff to provide service correctly the first time? And so, each one of these slides will kind of show a graph similar to the one on the right, and so it breaks it down by excellent, good, fair, poor. And then there was a few people that responded don't know to some of

the questions. And then the colors within each of the bars represents the provider type. So, the light blue is the attorney, the dark blue is vendor. And then there was some contract administrators and a few that just kind of fell into another category. And so, for this, how do you rate the ability of OPDC staff to provide services correctly the first time? We had about 60% of respondents that said excellent or good, and less than 10% responded with poor. And so, this was a 9% increase in the excellent or good responses compared to last year, as well as a 9% decrease in the number of people who said poor for this question. And vendors were slightly more favorable in their responses on this question than attorneys were. Next slide.

So, this, the second question is, how do you rate the accessibility and distribution of information provided by OPDC? So, this one has the same chart, but you can see it skews more towards the good and fair, and there was about 21% of people who responded poor to this question, but still with just under half who said either excellent or good. And similarly to the last question, vendors were slightly more favorable in their responses than attorneys. But this one also, there was a difference in the number of years of experience of our providers in their responses. So, those who indicated they've been in public defense for 6 to 10 years were the most likely to score us favorably on this question, and then those who were zero to five years' experience and those who rated us more poor in this question were those who have been here 10-plus years. But overall, this was an 18% increase in those excellent or good answers and a 20% decrease of the poor question. So, last year, about 40% of the respondents indicated poor for this question. So, there was significant improvement. Next slide.

So, next we have the helpfulness of the OPDC staff. This was the question where we were rated the highest, and you can see that most people, 65%, selected excellent or good, and there was only a handful of those who responded poor. And I think it's a good thing to note that over 50% of the vendor respondents selected excellent, and not just good or excellent but actually selected excellent. And so, this was an increase in both the good responses and a decrease in the poor responses compared to last year as well. Next slide.

This one is about the knowledge and expertise of OPDC staff. And so, this one was about another 60% that was good or excellent, and again, 50% of vendors selected excellent. And then of the vendors, we were able to break that down into what type of vendor you were. And so, we had some investigators respond, there were some psychologists, some mitigators, but of the investigators who responded, I believe there was about 30, over 65% of them, rated excellent or good for this question. And again, this was an increase in those good responses for us this year compared to last year. Next slide.

So, our fifth question, this relates to the timeliness of services provided by OPDC staff. So, this was our lowest rated question. So, the chart on the top, that is this

year's responses, and then the one on the bottom is from last year. So, you can see last year that it was heavily most people selected poor. And while poor was still the largest category of responses for this year, we did skew to have some more positive responses. And so, almost 40% selected that upper range of excellent or good. And this one actually, attorneys were more favorable than vendors compared to some of the other questions where vendors were a little more favorable.

Kim Freeman: The other thing I would add, when the survey did go out, we were 42 days at processing invoices, which is a little bit lesser of a processing time than in 2024. I try to send the survey out in June around the same time each year. So, I'm tracking how many days we are out in processing time because I believe that does impact some of the results that you're seeing here today too.

Maddy Ferrando: All right. So, for our last question, it was how do you rate the overall quality of services? And so, we had just under half that responded good or excellent. See the majority of those were in the good or fair category, but across our providers, it was the hourly attorneys who rated us most favorably for this question. And this is also another question where we saw a large decrease this year compared to last year in those number of poor responses. So, there was 31% more poor responses last year than this year. So, we've improved on that one as well.

Kim Freeman: And then this one is just thoughts. These were some of the comments. These were like the highlights from the word cloud here of please share your thoughts based on answers of overall quality of services. So, some of the themes you'll see here is helpful when you can speak to someone, staff are professional when they speak. So, when our providers call in, our staff is very professional. Some of the good comments that I pulled out is quality of service is great, appreciate new forms. So, when we streamline or making improvements, it's really impacting our providers in a positive way. And there was some specific callouts to some of our employees. So, our providers are naming some of our employees that they have a lot of interaction with, positive interaction, helpfulness, timeliness. I appreciate those specific callouts as well. Next slide, Mara. Oh, sorry, it's there.

These ones, there are a lot of similarities between both of these slides, but this one specifically relates to the opportunity for people to provide us three options for improving customer service. You can imagine the number one is pay invoices within 30 days. The ability to talk to staff when a question, so they'd like to be able to call in or have the opportunity to actually speak to someone when they call, there was a lot on that. Hire additional staff, more staff training. So, consistency in OPDC providing answers. So, if they talk to me, they get the same answer as if they talk to Maddy. So, there was some consistency in there, more transparency. And another one that was listed several times was to have staff and management out in the field talking with providers to understand community needs. So, next slide. So, I just want

to kind of pause there and just see if there's any questions before we jump into this next slide.

Jennifer Nash: No, thank you.

Kim Freeman: Okay. So, we do have a new KPM. That's a new key performance measure that has been recently adopted and approved by the legislature. What this KPM is, is a percent of financially eligible individuals receiving a public defender with a target of 100%.

Jennifer Nash: That's been adopted by the legislature?

Kim Freeman: Mm-hmm.

Jennifer Nash: I thought... Oh.

Kim Freeman: Yeah, it was in our budget and approved. Correct me if I'm wrong. I've got a yes. Okay, good. Phew.

Jennifer Nash: Can you explain?

Kim Freeman: Yeah, so what...

Jennifer Nash: I think the question was, the last time this was brought up to us, is we didn't know what that meant.

Kim Freeman: Right, so we have now actually a good definition of what this particular KPM is, and this is related to individuals identified as unrepresented by the courts, reflected in the Oregon Judicial Department, OJD's Unrepresented Dashboard.

Jennifer Nash: Okay, so how many people on the unrepresented list get lawyers?

Kim Freeman: Yeah. Mm-hmm.

Jennifer Nash: Okay.

Kim Freeman: So, what we need to do, and what we've started, right, is the agency has established an internal work group to talk about all of our key performance measures, looking at the ones that we currently have. Do we eliminate them? Do we update the metric? Do we keep them the same? And then we also had a conversation earlier this month at our September 4th work group commission meeting where we talked about KPMs and what are we going to look at? We talked about this one and going, "Hey, what does this truly mean?" So, I went back with Ken, and we had a conversation

about truly what this means. And then between Maddy and I developed really how we're going to measure.

Now, how we measure that is still up for conversation internally, and obviously we need data. And what kind of data are we going to measure? And what is the timeline for someone being on the unrepresented list? Is it 3 days, 5 days, 15 days? Again, those are things that we're going to discuss and bring back all of our proposed changes to KPMs or any new ones. So, we'll bring those back at a later date. We do need to have those approved and finalized because they will be presented early 2026 to the legislature for review and approval to be implemented in the '27-'29 biennium.

Jennifer Nash: And none of that granular information was defined by the legislature?

Kim Freeman: Correct.

Jennifer Nash: So, maybe you don't know the answer to this, but do you know was there any discussion regarding legislative intent?

Kim Freeman: I'm hoping the director can help me with that.

Ken Sanchagrin: Chair?

Jennifer Nash: Yes.

Ken Sanchagrin: Happy to jump in there. I mean, yes, but it was still at a very high level. I think that the overall intent of the legislature, which is unsurprising given the crisis that's been over the past few years, is that we are to the best of our ability making sure that everyone who is entitled to an attorney receives one. And I think this is common with KPMs, that it's really stating the overarching goal, but then that's what does lead to what Ms. Freeman was mentioning to where we have to define, what really defines them as being unrepresented moving forward. And so, that's the opportunity we have in 2026. But I think that from an intent standpoint, and I think that it was primarily myself and then Ms. Taylor in these conversations, but it's really just focused on making sure that we're meeting our charge that nobody who needs an attorney doesn't have one. But I think that there is that recognition of whether there are conflict cases or again, the timing. There's a lot of detail there.

And I think this is not uncommon. I remember at my previous agency, we would have some overarching charge on meeting contract requirements, but what does it really mean to meet the contract requirement, and how do we define that? How do you measure it internally is really important. And so, that's what we're going to try to put some meat on those bones when we come in in 2026 to make sure that we're still meeting that overarching intent that they have. But yeah, the devil's in the

details. That's what we have to work out. But it's really quite simple, almost as simple as I stated, are we meeting that requirement?

Jennifer Nash: Right. But I mean, I'm thinking. No, maybe I just don't need to go down this rabbit hole and you've probably already done it. But if you have a lawyer, but then you go on the unrepresented list because you fired your lawyer, does that really mean that you're unrepresented? I mean, yes, sure. You're unrepresented at a certain time, but is that the people the legislature really wants us to count? Maybe the answer is yes, but I think that's... Because that's going to skew the numbers a lot.

Ken Sanchagrin: Well, and I think that also comes down to how that information is presented to the legislature when we actually have that opportunity in front of them. The KPMs are very general, and when I've sat in that hot seat during those presentations, a lot of times what I would try to do is to bring in that information. So, let's say we're in a really great place and maybe 99%, we could have a 99% rating at the beginning of the next long session. What my goal would be then is to really explain the 1%. It's not to explain it away, but to say of that 1%, here are the percentage that are conflict cases. Here are the percentage that you're right, may have bounced from lawyer to lawyer to lawyer and are currently unrepresented, but it's because they just fired their third attorney or something like that. And then it's up to the Public Safety Subcommittee and the legislature to either disagree with my more nuanced discussion or to... They can accept that or not at that point. But I think that's really where it falls on us and our research staff to try to think about what level of information we can get.

Because I know like right now it is really difficult for us to identify what are just conflict cases. It's difficult for OJD to identify what are conflict cases, but this is where we need to lay that groundwork so we know what we can present so that when I sit up there, I could provide a much more nuanced view whether we're at 95%, 99%, or whatever it is. But it's really, to me, I view it as more of a discussion. It is a data point that then is in a PowerPoint that whenever you're below the identified threshold, then that's when I'm the most nervous in those presentations, but it's been up to me to provide the information for the legislators too. Sometimes they will actually move around those targets depending on what you've done in the past as well. And so, I think that we probably would have an opportunity once we have data in place to say, 100%, we always want to strive towards 100%, but yeah, how do we define that? Maybe it actually needs to be 99%, 98%, or something else because we have to account for those cases that are more difficult.

Jennifer Nash: Well...

Ken Sanchagrin: I'm just throwing random numbers out there.

Jennifer Nash: Yeah, I know.

Ken Sanchagrin: But I think that that's where we can help to define that, and these KPMs can change in that way. Or perhaps we could propose something that is a little bit more nuanced just as a formal definition as well. I can't guarantee...

Jennifer Nash: That's what I think...

Ken Sanchagrin: ...the legislature would accept it.

Jennifer Nash: Yeah.

Ken Sanchagrin: But I think that the more that we think about it and I think the better argument we make, then we might succeed there.

Jennifer Nash: I think the key isn't the 100%, but the how you define unrepresented.

Ken Sanchagrin: Sure, yeah.

Jennifer Nash: Yeah.

Ken Sanchagrin: And I think it'd be good to be transparent and upfront as to what that means because we also don't want, I mean, maybe not every member of the public either cares or recognizes the nuances of what it means for someone to be unrepresented, but at least it'd be nice for that to be out in the open.

Susan Mandiberg: I have two kind of related questions I'll ask Ken, if that's okay.

Jennifer Nash: Yeah.

Susan Mandiberg: They want the data by person, not by case, is that correct? So, if a person is charged with three different counts, we would count that as one individual, not three individuals.

Ken Sanchagrin: I believe that most of the time when the legislature is thinking about this, they're thinking about people as opposed to cases.

Susan Mandiberg: Okay. And...

Ken Sanchagrin: But I will not say that... Legislators are extraordinarily busy and so there may be some out there who would actually like to think about it from a case standpoint, and maybe that just did not enter their mind as they were going through the final days of session.

Susan Mandiberg: We can do it by person because it says...

Ken Sanchagrin: I believe under the way it's currently written, yes, yeah.

Susan Mandiberg: And so, what if a person has one charge in Washington County and also has one charge in, say, Multnomah County, would that count as two persons or one person?

[Laughter]

Jennifer Nash: The practices in my county, and I'm sure in lots of other counties, if you're held on a charge in multiple counties and you're out on warrant and haven't been arraigned on those other charges, you're not going to have a lawyer, but that case is going to identify you as unrepresented because it's in a system, but you may have a lawyer on another case in another county.

Susan Mandiberg: My point.

Jennifer Nash: Yeah, that's it.

Ken Sanchagrin: And I think that is one of those areas where it's to be defined.

Susan Mandiberg: But we're going to keep these kinds of nuances in mind as we put this...

[Crosstalk 02:04:17]

Ken Sanchagrin: Very much so, very much so, yes.

Rob Harris: One question and then one comment. One of the questions is, of the other KPMs that we have, not just this one, are any others legislatively mandated and either not well-defined or are they agency devised?

Ken Sanchagrin: I mean, they're all legislatively mandated.

Rob Harris: Every single one.

Ken Sanchagrin: At different times. I mean, the same thing with like the appellate filing of a brief within a certain... Well, we have an opportunity in 2026 to come back with suggestions for refinement. Because I think nobody knows internally where we came up with, I forget the number of days, but is it 160 or 180?

Emese Perfecto: One hundred eighty.

Ken Sanchagrin: One hundred eighty days for the filing of an appellate brief. I don't think anybody at the agency has any idea why that was the number of days chosen, but perhaps we could talk with our appellate.

Rob Harris: So, if we were to change these, we would have to have them legislatively changed?

Ken Sanchagrin: Yes.

Rob Harris: Okay.

Ken Sanchagrin: But we've been invited to do that. It's not just that we're initiating it of our own kind of volition. We've been asked to comment and do it.

Rob Harris: Okay, right. And the other one's just a comment, just to remind people that 4% unemployment is full employment.

Ken Sanchagrin: Good point.

[Laughter]

Jennifer Nash: Right. Any other questions? Okay, great.

Kim Freeman: Thank you.

Maddy Ferrando: Thank you.

Jennifer Nash: Thank you. All right. We are...

Philippe Knab: Can I just ask one quick...

Jennifer Nash: Yes.

Philippe Knab: ...question to Ken while we're on the KPM thing. Is there going to be an opportunity to reassess those KPMs in commission work down the road? And if not, if we could add that, that would be great.

Ken Sanchagrin: Yes, you all play a vital and necessary role as staff is working to kind of set the foundation for you, but we're not going to move anything forward to the legislature without you all seeing and approving those first. And we've built that into the timeline.

Jennifer Nash: Could you explain a little bit about how it is that the agency is thinking of, well, A, how the agency's thinking about refining the KPMs and your plan for including the commissioners in that process because it really feels like we need to think about what we want to be measuring. The things we want to be measuring should be thoughtful data points that are strategic in nature. And so, can you talk a little bit about what you envision the process being?

Ken Sanchagrin: We have, as staff, had our initial meetings and come up with some initial lists on our own, but I certainly would think that, Kim, I don't know if you'd be willing to come back up just for a moment and maybe explain where we are at a slightly more detailed level just since I've been away for a week and a half.

Kim Freeman: Sure.

Ken Sanchagrin: But then also I think that if you all have suggestions, I mean, would we be ready to share even our kind of back of the napkin list with commissioners so that they could comment or suggest their own?

Kim Freeman: Sure. So, we've had a couple internal meetings. The data team is currently gathering data. So, we have some obviously decisions that we have data that we can make decisions on. We're currently looking at the strategic plan because we need to look at that and see what KPMs that we can incorporate into our strategic plan. We also have the governor's letter that we responded to. We want to look there. Things right off the top of the head, I can say like the continuing learning education, which I believe is KPM number four, that one we're going to do away with. And the reason is the KPM says you need to have 12 hours in a year. Our contract says 12 hours in two years, and the Oregon State Bar, you're at 3 years for your total CLE. So, it's very conflicting, and when we've done this survey, I get a lot of comments back from people, which I understand. So, that one, we're going to do away. Now, is there another measure somewhere? Sure, we can look at that. So, the customer service survey one, that is one we do need to keep. So, that one will always be there. The boards and commissions, I've done a little bit of research for Vice Chair Mandiberg on what other boards and commissions do. And so, I've given her that information for her to look at. And then I'm trying to, I'm totally dribbling.

Jennifer Nash: PCRP percentages?

Kim Freeman: Yes.

Jennifer Nash: Yep.

Kim Freeman: So, we're looking at that metric. Commissioner Harris at our work group said we need to look at PCRP versus non-PCRP. So, again, the data team is gathering a lot of data to come back to our internal work group to say, "Okay, here's a lot of data points that we can use." And then how do we incorporate KPM? So, my goal is to get that, hopefully, by the end of next week. We're meeting every other week internally as the staff work group, and then obviously come back to a commission work group with like, "Here's our ideas, here's some suggestions," and then have your thoughts and suggestions as well.

Jennifer Nash: Is there kind of an ideal number of KPMs? I mean, we don't want too few and too many.

Kim Freeman: Well, yeah, so we currently now have six. I have looked at several other boards and commissions, just I was glancing last night. So, I'm going to use CJC as an example because I was surprised, they only had two. So, that was the Criminal Justice Commission. I was surprised they only had two. Public Utility Commission, PUC, has 15. I don't want 15, I'll just be very honest. A lot of them, it seems to be between five and seven.

Jennifer Nash: What's the sixth one? I have appellate case processing time, customer service.

Kim Freeman: So, our new one is number six.

Jennifer Nash: Oh. Oh, right.

Kim Freeman: Yes.

Jennifer Nash: Yep.

Kim Freeman: Sorry for the confusion.

Jennifer Nash: No, that's okay.

Kim Freeman: Yeah, so it really, I think, is varied. And I believe it's what we believe are key performance measures or metrics for the agency and how we can monitor them and tell our story. That was what I heard from our commission work group is how does OPDC tell our story? And what key performance measures do we need to put in place to help us tell our story? But tie it to our strategic plan and our governor's expectations as well.

Philippe Knab: Can I ask, you said the customer service survey was mandatory?

Kim Freeman: Yeah.

Philippe Knab: Why is that mandatory?

Kim Freeman: I think it's a measure, honestly, of how we're doing as an agency. My previous state agency, we had a customer service survey as well. And then the governor has instituted a customer service policy that the agency has just implemented. One, she wants us to be responsive, right? We need to answer our phone. We need to provide emails. We need to make sure that our constituents are being served by the agency. And I think personally, it's a good summary from our providers to be able to provide us with direct feedback. Like I said, I looked at all the comments. I take them

to heart. We've broken them out by section. We'll be sharing those with the managers. Ken and Emese haven't even seen them yet. And so, we're doing a lot of work to gather data and comments to be really strategic in the feedback that we've received this year.

Jennifer Nash: It's mandated by the executive branch.

Kim Freeman: Yeah.

Jennifer Nash: It used to be that the agency – Commissioner Harris can talk about this – was very, very helpful, very easy to get ahold of people. Really, you had a question, you could pick up the phone. You could ask, you'd get an answer. It would be the right answer. And then there was a regime change, and that's probably a good word for it.

[Laughter]

Jennifer Nash: And at that point it was you're not allowed to talk to anybody anymore. And that became the culture of the agency. We don't want any... And I won't talk about all the reasons why, but that became the culture of the agency. And then there has been a real fight for a long time to kind of bring it back. And I feel like we've really, really made a lot of really good strides in that regard. And we're not all the way there, but I mean, one of the most obvious things is there's no phone numbers for anyone to be able to call anyone. I mean, maybe there is now, but six months ago there were no phone numbers on the website to call anyone. Only emails, and the emails wouldn't get answered, if there were emails at all.

And so, I think that being back in that place again, where you can pick up the phone and call someone and say, "I have a question, can you help me?" Is really, really helpful. And to have every single time someone emails you to have the emails answered. I mean, even as commissioners, many of us would have questions, as the chair of the commission when I was allowed to, or given permission, I shouldn't say allowed to but given permission to communicate with staff members who are no longer at the agency, emails would go unanswered, which is just ridiculous.

[Laughter] You should at least receive a response back that says, "I don't have an answer for you, but I'm going to get one." Instead it was like a black hole. So, I'm really, really pleased, and I think that a lot of the providers would say the same thing, that the culture of the agency is really shifting and we can see it and we very much appreciate it. And I know providers, I've heard that feedback too, providers appreciate it.

Kim Freeman: And I will follow up. That is one of the expectations of the governor's customer service policy is that as an agency, we will establish what that timeline looks like to respond to emails. We've not determined that yet. So, whether that's 24 hours, 72, and again, you're right. If you have a response going, "Hey, I need to do some

research," or "I need to go talk to Ken," as in, you know. But at least you have a response that you know someone saw your email. When my phone rings and I answer it, I get, "Oh my gosh, you actually answered your phone."

Jennifer Nash: Right.

Kim Freeman: Right? And I think sometimes that's true to state agencies as a whole. I'm not trying to, you know, but sometimes... I heard that at my previous agency, "Oh, my gosh, actually answered the phone." So, I think it's important for us to answer the phone.

Emese Perfecto: So, I just want to add that as you mentioned, there was a previous regime. We've made a lot of changes in management and we've kind of been pretty strategic about that. Because I've heard you loud and clear since I've been here for two years, I think pretty much every meeting I've heard about the black hole. And so, we're trying to make those changes. Even if it's just a response, "I'm out of the office, I'll get back to you or someone will get back to you," will be part of this work that we're doing. And I know that Kim's a stickler on this. So, then I'm a little scared [Laughter] if I don't answer my phone. But yes, and Amy has, Amy Jackson, or Amy Shaver, sorry, has taken over the PA team. And that is the expectation, is that there will be a clear line of who they can call for whatever question it is. They won't have to look around the agency, go, "Who can I get to answer the phone to ask this question to?" Every provider will be given, like if it's a question about your contract, this is their person, that kind of thing.

Jennifer Nash: That's great. I mean, as I said, in the last couple of years, there's been a really big shift, and I've seen it. And I know it's a work in progress and really, really appreciate it, but I think it's very important. And we can see some of that shift in the customer service responses. So, thank you. Any other questions or comments about the KPMs? All right, thank you. Okay, we're a little bit early. So, we'll just take five minutes. We'll just take a quick lunch break. But before we do that, we have to be back at 12:00 because we have Presiding Judge Prall coming and I don't want to make her wait. So, please everybody be in your seats by 12:29. So, thank you. I'll see everybody back at 12:29.

[Lunch break]

Jennifer Nash: All right. Ready to get started, everyone? All right. Welcome back to the Oregon Public Defense Commission meeting after a lunch break. I am pleased to welcome Presiding Judge Tracy Prall, who has visited with us before virtually but is here in person.

Tracy Prall: Hi.

Jennifer Nash: Thank you very much for taking the time to come talk with us this afternoon, and I will turn it over to you.

Tracy Prall: Chair Nash, thank you. And commission members, thank you very much for the opportunity to speak with you again, and nice to see you all in person. I just wanted to start real quickly and briefly with the history in Marion County of this crisis. We first saw signs of a public defense, what we then called the public defense crisis in July of '21, when our public defender's office was unable to take all the Ballot Measure 11 cases that would have been assigned on their days. We have two providers in Marion County quickly. The Marion County Association of Defenders is a consortium and then the Public Defenders of Marion County. And the public defenders in Marion County, they had lost some attorneys, felony-level attorneys, and so they were struggling at that point, just kind of still in the throes of the pandemic.

Our providers worked together very well. MCAD took on some of those Ballot Measure 11 cases, and then by September or so, they were struggling to take the cases. We really kind of bumbled around the judges and providers trying to just hodgepodge, put it together. We started doing in-custody settlement conferences inside the jail, mass settlement conferences, trying just to get rid of cases that were the low-hanging fruit, ones that we could settle quickly and get providers more capacity. In November of '21, we started meeting with the interim director then of OPDC. And then in December of '21, we were meeting with Director Singer weekly. And we began more settlement conferences in the jail and then did a mass docket out of custody. We were having weekly meetings with OPDC and the analysts and at least monthly meetings with the providers to discuss the very issue.

It all kind of came to a head starting in March of '22, and May, we really kind of did expedited case resolution, what then Washington County called the Wingspan and now we're going to try again later in October. And again, did mass settlement conferences and just did a big push to a point. At that time, we then made the very maybe bold move to appoint OPDC attorneys, folks who were line attorneys for OPDC, staff attorneys for OPDC. We got mandamus on that issue and stopped appointing the attorneys from OPDC. But then we were appointing attorneys in Marion County over their objection, and that quickly became an issue for our public defender's office, and they also filed a mandamus. The mandamus was never decided. The Supreme Court heard our oral argument on it, but really, I want to give you the tenor of how we got to where we are today.

With that mandamus, we heard a lot from the justices, just them and their questions and what judges could do to appoint people over objection to possibly even appoint civil lawyers to. We were, "Whatever will work, we'll try anything." And so, we got a lot of information from that oral argument and made some decisions based on that, even though a decision was never made. We worked really

closely with the providers, and then we kind of came to the decision that we were going to, as best we could, make sure that number one, no person was in custody without a lawyer. That has always been Marion County's position is that one day is too many days without a lawyer if you're in custody, and we've been very diligent about that. And then we tried very, very desperately to make sure that all domestic violence cases, even if they're out of custody, had lawyers, and DUIs. I saw in one of your reports, Marion County didn't have an issue with DUIs. It's because we prioritized DUIs and DV really heavily as where we were going.

There's another thing that was happening. Historically, Marion County would follow the state average of having more misdemeanors than felonies, but once the pandemic hit, we had more felonies than misdemeanors, significantly more felonies than misdemeanors. And that stayed true until about June of last year. Finally, I don't know that it's a good thing, but the felonies leveled out and the misdemeanors increased. So, then we ended up with more misdemeanors than felonies, but back with the state, kind of their trend. And then the other thing that happened to us is our public defender's office implemented national best practices. They had an advisor or a consultant, a national ethics consultant, who helped them develop their practices of implementing national best practices for ethics. And they were submitting a declaration or an objection to appointment at every session that they were the attorney of the day for.

So, with that, again, we were focused on appointing lawyers to in-custodies, DV, and DUIs. And the contract was also frankly a hindrance in saying that the attorneys could only take 25 a month, 25 MAC a month. So, we had to... We were saving it in some ways. You ask, how did Marion County get such a high number? In some ways we were saving it because we wanted to make sure that the MAC was used for in-custodies, DUIs, and DV. And so, at the end of the month, if there were lawyers who didn't have their 25, then our analyst would contact those lawyers, say, "Hey, you didn't have your 25," and we would take off the unrepresented list, take DUIs, DVs off the unrepresented list. That process, of course, got us way behind. In December, I think we were hovering close to 1,000 folks out of custody without lawyers. Again, no in-custodies without lawyers. You will see that number fluctuate up and down around seven, and that is because we do sometimes appoint OPDC for the one day to get them on the unrepresented list so that folks can take them off of that list, or the trial team will take them off that list, or we will appoint lawyers even over their objection to in-custody cases. But the idea is never to leave somebody on the unrepresented list if they are in custody.

The big change came when the Supreme Court, when a mandamus was filed out of Washington and I think Multnomah Counties. There was a case where a person who was unrepresented out of custody then wanted to have their case dismissed because they didn't have a lawyer. Complicated facts for one of them. One of them has already been mooted out. The other, I believe, may be mooted out, the

Supreme Court hasn't decided, but ultimately what we were facing is the possibility that the Supreme Court would rule that anyone who is out of custody without a lawyer for X number of days, their case must be dismissed. We didn't know if that would be 7 days, 30 days, six months. How long are they going to say? And we looked at our list and we had a lot of what we would say were high-priority cases that were even more than 120 days old, 90 to 120 days old. Those were not okay for us to think about dismissing. And so, we did another push in February, end of February, we had a meeting with our providers. We told them we're going to move to a different practice of appointing folks out of the box and expanding from the in-custody, DV, and DUIs to really anything that is in custody or just really allowing MCAD to move back to what we call the attorney of the day and taking everything on their day.

We're still very cautious. There are cases, we do have our priority from the crisis planning. We had our list of priorities. Frankly, low-level property offenses, low-level drug offenses, low-level or even high-level driving offenses are low priority on our list. And so, that's what we wanted to leave on the unrepresented list, but we needed to clear everything else out. We let our attorneys know that we would appoint even over objection, and if they then wanted to have a hearing, we would have a hearing. We implemented that, I would say fully by April 15th. So, we notified them end of February. March, we started building the process. And by April 15th, it was fully implemented. So, you may have then seen more appointments. For MCAD, it wasn't that they weren't willing to take the appointments up front. It was that we were holding back those appointments, making sure that we had enough attorneys for all in custodies, DV, and DUIs.

But then once we moved to, "You can have everything on your day," actually, I think that they were... That's what they wanted all along was to have some control over their own dockets, "I can take all my cases on this day of the month. I know that I have to get to the jail. I know I have to meet with my clients, but the rest of the month I can schedule." Because otherwise, we were appointing them on random days. We would just call and say, "Hey, we're appointing you to five cases today. You need to get to the jail tomorrow." And that's a very difficult way to practice. So, I think for the MCAD lawyers, that gave them exactly what they were hoping for, a little bit more control over their dockets.

The PDMC, we worked with the director of PDMC. They are now, from the courtroom, we're just sort of going back to the appointing PDMC. They're then telling us which lawyer will take the case. They do still regularly object to appointments once they have reached what they state, their stated capacity. In the courtroom, we don't appoint them over stated capacity or over objection. We appoint OPDC, give your analysts time to hopefully find somebody, but we really are only giving them about 24 hours. By four o'clock the next day, we're appointing a lawyer. That could be someone who my analyst has located, someone willing to take

some cases on an hourly basis. It could be that the Trial Division has taken the case, or we will appoint over objection a PDMC lawyer if it was their day. We've only had to do that to MCAD a couple of times, and those get resolved through hearings. And whether the judge leaves the attorney on or not, there's only been one case that a lawyer has objected to and been let off. The others, mostly they don't object. Somehow, they work it out internally. Sometimes the cases get moved around within PDMC. Or if there's an MCAD lawyer who, frankly, we have a relationship with a lot of the MCAD lawyers where if the appointment was made and we just didn't know that they're on vacation for the next two weeks, then somebody'll call us, and we'll make a switch.

There have been good strides. I would say PDMC has stepped up and taken more cases than they had historically. The Trial Division has really been a lifesaver the past couple of months. They have taken cases within that 24-hour mark. Those get assigned to them very quickly. And I would say, as always, the MCAD lawyers have stepped up. They have been really what has saved Marion County from pretty much disaster. Those lawyers, judges will call, the analysts will call, and they will say, "What do you need?" Even if they feel like they are over capacity or they know that they are over their 25, that they're not frankly getting credit for it, if you will, and they're taking more cases than other lawyers and getting paid the same. They will still do it because they believe it's the right thing to do. I've had conversations with many of them saying, "I know, Judge. It's all right, give me another, give me another." And some of them are so far over what you would say is their ethical MAC that we then tell them, "No, thank you. We think you need to wait." So, we pull them back.

But it is something where I think our analyst has a great relationship with those lawyers, and so that has been very helpful. Your analysts have been very helpful in finding lawyers. The trial team has really stepped up, and I do think all of our providers are taking more. The hope is that we can get back to the attorney of the day model so that our analyst doesn't have to keep appointing right now at the end of the month that people didn't get their 25. She then calls them and say, "You're going to be appointed to these cases." Again, that's not a great way for the lawyers. And sometimes she does it at the very beginning of a month. So, it looks like, I can see from MCAD lawyers, that it looks like that they had a drop, but all those appointments then got made the first of the next month. And so, then some months seem bigger than others. It just depends on when those appointments get made.

But I think it's a combination of a lot of things that has helped us bring our numbers down. I think today, well, I ran the numbers last week, and we're down to 200-and-some out of custody. It looks like 244 back on September 11th, I ran the numbers, 244. And that includes probation violations, post convictions. Really, we've got 155 out of custody pretrial. And those cases we've now scheduled, I think, almost all of them, 20 a day every Thursday in October to do what Washington County called

Wingspan. We called Early Resolution early in this process where the Trial Division is going to help us. They're going to hopefully meet with most of those folks, see if they can resolve quickly. The district attorney is not... It's not a fire sale. And that, I think, is what prevented progress the last time we did it. There's just an understanding that this is pretty close to the best possible deal. There could be some adjustments based on treatment or other things, but really what we're giving you is, do you want to take a deal? Do you want to negotiate? Or are you wanting a trial? If it can get resolved, it'll get resolved in October. We're hoping to bring those numbers down to about 50. What we're left with in the end, I think that would be a great success, but ultimately, we'll just see how that all shakes out.

The interesting thing is the folks who are on, right now we have a call-in system for anyone who's on our unrepresented list, and they call in monthly, they call in. And if somebody doesn't call in, my analyst is generally able to reach them, and she gets them right back on the call-in system, so we don't have a lot of failures to appear on that docket. So, we're very hopeful that they will actually appear for this early resolution docket and we'll get a bunch of them cleared, get back to the attorney of the day model so attorneys know what's coming. We really need to figure out right now, PDMC has two days on our docket. That wasn't intended that they take all the cases on those two days. It was they weren't able to take all the cases on their days and MCAD was really picking up the slack. And so, to help with that, PDMC was the body in the courtroom to free MCAD attorneys up on that day, just so they could do other things, but we weren't really anticipating PDMC would take all cases on that day. So, we do need to get back to PDMC on one day, MCAD on the other four, and hopefully, then we won't keep adding to our list of unrepresented. I'm happy to take questions.

Jennifer Nash: So, the Trial Division doesn't have an assigned day right now.

Tracy Prall: No.

Jennifer Nash: They're just picking up kind of the slack, so to speak.

Tracy Prall: Right.

Jennifer Nash: Do you envision that you would want the Trial Division to take one day, or have you thought about that? I'm not suggesting, I'm just asking.

Tracy Prall: Right. I have not contemplated that. I think right now, they're the backup or they pick up the slack for PDMC.

Jennifer Nash: Okay. That's a lot of information. Do people have questions? I think I tracked it pretty well.

- Philippe Knab: I guess I'm interested to know in the overall filings, has that number remained relatively static or how has that fluctuated? I know you said that the misdemeanors went up to meet the felonies after kind of pandemic times. Is it rising, falling?
- Tracy Prall: I would say the number is falling. It's just it's a different number though. The felonies now are lower. So, I think that will help us tremendously. Misdemeanors are higher, but we had a lot of misdemeanor capacity, so misdemeanor should be fine. But I do think we had the pre-pandemic 2019 numbers were high, we went down, and now we're kind of back even with our pre-pandemic numbers. I wouldn't say we're higher than pre-pandemic, about the same. And we finally switched back so that misdemeanors are higher than felonies. I think it's a good setup for getting back to how we did business in 2019.
- Susan Mandiberg: I have a question about I think you said that the MCAD lawyers are sometimes taking more cases than one would expect them to take. Is there a way to break that down into felonies and misdemeanors? Which kinds of cases they're taking more than you would expect?
- Tracy Prall: It's the very experienced felony lawyers taking far more than their MAC, their 25 MAC a month.
- Susan Mandiberg: And among those very experienced felony lawyers who are taking more than their MAC, is there a way to know what percentage of those cases are going to trial versus what percentage are being resolved through negotiation?
- Tracy Prall: We could get those numbers, sure.
- Susan Mandiberg: I'd be super interested in seeing those numbers.
- Tracy Prall: For sure, right. Are the skills to get cases resolved more quickly and so they're not? Anecdotally, I would say that's true. Yes.
- Susan Mandiberg: So, anecdotally, you think that more of those cases are being resolved without a trial?
- Tracy Prall: Correct, yes.
- Susan Mandiberg: Thank you.
- Tracy Prall: Yeah.
- Jennifer Nash: I just had a clarification question, I think I know the answer to this. You switched to not having the attorney of the day take all of the cases because you wanted to hold back capacity to make sure you had lawyers for in-custody defendants, right?

Tracy Prall: Right.

Jennifer Nash: Okay. And now because you're feeling like that's covered, generally speaking, you'd like to switch back to having assigned attorney of the day so everybody can plan their schedule and so can the court.

Tracy Prall: Right, yes.

Jennifer Nash: Okay.

Tracy Prall: And because we've gotten our unrepresented list down to they're not cases that we're okay having dismissed, but they are the lower-priority cases. The 25 a month is still a problem. I understand why we do that because we've also experienced the cliff that would hit us in March or April or May. And then we have no lawyers because they've already reached their 300, their yearly max. And so, that is where there are lawyers in Marion County, I would say most of the felony level lawyers in MCAD are capable of doing more. It's just not fair that they're not paid more for doing that work. So, they reached their 300 and then it's like, "Yeah, you can take another," but these other lawyers aren't even near, they're half of 300 getting paid the same. So, it's very difficult to ask them to do more. They're capable, but it's difficult to ask.

Jennifer Nash: And that's the rub that, I mean, this commission and everyone has struggled with is the difference between the MAC model and the workload model. And I think everyone agrees the MAC model is not the right model, but that's...

Tracy Prall: Right.

Jennifer Nash: Working through and trying to figure out how to convert those. So, that makes sense. What things do you think that this commission could help with that would help you?

Tracy Prall: Just that.

[Laughter]

Tracy Prall: Somehow. I know this contract is going to be still the MAC, and I understand that it takes time to figure out how to get to a workload model. I think you would retain lawyers better, certainly the consortium lawyers retained, if they were in a workload model. I think they struggle looking at even the Trial Division, how the Trial Division is paid versus how a consortium lawyer or a PDMC or a public defender's office lawyer are paid. The other thing I saw in the contract that I've heard is newer lawyers being paid differently and different expectations. It all makes

sense. Some of the things that we have requested, and we had a meeting with Director Sanchagrin a while ago, and I feel like we were heard. So, I really appreciate that.

And some of the changes in the contract, I think, are things that our team spoke about. And I think the legislature heard that consortiums are important. And so, that, the risk to them, just removing that risk, I think will improve their prospects of getting lawyers to join them. I know from the numbers that we have enough lawyers, we have enough MAC capacity if all the lawyers are working to their MAC. The difficulty is leave and vacation, sick, bereavement, everything that could possibly happen has happened in [Laughter] Marion County, and that really stressed the providers. I know that has been difficult for specifically PDMC, the amount of leave that the attorneys are on. Protected leave, absolutely. But how do you accommodate that in the MAC? How do you say you've got enough lawyers, but if everybody, if they're all having kids, lots of paternity, maternity leave, and then we're left with, we don't have enough. And so, I worry about any cuts that are going to be made to our providers, and I worry about if we go back to the attorney of the day, are we going to be faced with a cliff in March?

Rob Harris: Thank you for being here, Judge. I had a question. I know your testimony is directed towards this commission and mainly the supply side. Have you been able to engage your local district attorney or your other judges to talk about the demand side and how to change that curve or modify it or address that side? And have you had success? And do you have ideas that maybe the elected DA has not wanted to implement or is resistant to, I'll say, that you think could, I don't want to say reduce the demand side, but improved the ability of the current supply of lawyers to meet the needs of the community? I know your tools are limited. I know the DA's elected, but defense attorneys are the least powerful source within this entire structure. They don't charge people. They don't set calendars. They have an obligation, constitutional obligation, as you do, obviously, and I know you honor that. But my point is that a lot of it's focused on supply, and there's at least three different actors, defense lawyers, judges. You've not counted, well, there's four when you count law enforcement, right?

Tracy Prall: Right.

Rob Harris: The jail, right? And their ability to staff. So, have you explored specifically, I guess, with the prosecution side about ways to handle demand?

Tracy Prall: Chair Nash, commission members, the Marion County District Attorney has, in many ways, been on the forefront of trying to divert cases from the criminal justice system. Paige Clarkson was integral in going to, I think it was Seattle. They took a team to Seattle and looked at the LEAD program. And so, that program is to divert drug offenses away from the criminal justice system, and then it's become a model

that the state is looking to and got us to the unclassified misdemeanors for drug offenses, and we have now that program. I would say our DA has been pretty adamant that she has taken those things into account and tried to figure out how to minimize the cases coming in. They still have the ability to no action cases. They have the ability, again, to utilize the LEAD program for low-level drug offenses. They then expanded that program to include offenses that are drug driven. So, even a burglary could be eligible for our, we call it the restore court, for those that are really drug-driven offenses. So, they are trying to pull those in, and those cases would be dismissed if they complete the program.

I think that to say that the district attorney isn't engaged, she's been engaged in all of the planning for the crisis plan. She's been willing to talk about... To say that she can affect the demand, I think Marion County is also a little bit unique in that we have five institutions in our county that does drive some of the crime and also how we had more felonies than misdemeanors for a long time. I don't think she's willing to say we're not going to prosecute those high-level crimes to help with what our crisis was, and our crisis was felony. We had plenty of misdemeanor lawyers. It was the felony level. And so, that's the difficulty for Marion County. If it was that we just had a glut of misdemeanors, I think we could have found more ways around it, but that wasn't where our crisis was. Our crisis was frankly with mid-level felonies and major felonies. And those are just not crimes that the district attorney could say, "We're not going to prosecute." I think she would have been run out of office.

And so, that is tough. And then to say on the law enforcement end, I think they have been very engaged in trying to find different ways to engage folks. We had mental health providers go along with law enforcement to try to divert cases and avoid them coming into the criminal justice system. And then of course, the LEAD program. So, I think law enforcement in Marion County has also been willing. We're just, in that, it was in a weird spot when the crisis hit us.

Alton Harvey Jr.: So, I remember talking to you, Judge, when you were before the commission, I believe you were online, and I thought that when you said you all were going into the jails for early resolution, I just, I love that idea. And I was just wondering, the outcomes, were they such that it would kind of send recidivism the other way so that defenders wouldn't have to be engaged with an attorney in the future? Or was it still like they're getting probation, diversion, or a resolution that would have them possibly back in that cycle where they would need an attorney again?

Tracy Prall: Right, Commissioner. Chair Nash and Commissioner Harvey, the settlement conferences that we did in the jail, a lot of those were very high. I did sit in on the conferences on murders and on Jessica Law cases. Those are not cases that, well, hopefully, they're not going to recidivate. They did resolve, and they resolved with prison sentences. I would say a lot of those cases resolve with prison sentences to the extent that we know of.

Alton Harvey Jr.: So, you guys were more focused on those types of cases.

Tracy Prall: Right.

Alton Harvey Jr.: Okay.

Tracy Prall: Yeah. Trying to, again, create attorney capacity. So, if the attorney had a couple of J Law cases and other Ballot Measure 11 offenses, those are time-heavy, resource-heavy cases. If we could resolve those quickly, then that would free up investigators, frankly, and a lot of those interpreters. And so, we were trying to just resolve whatever low-hanging fruit we had trying to get those off the caseloads, yeah.

Jennifer Nash: Other questions, comments? Well, I will say thank you very much. And I will say that your comments to us and your feedback the last time you appeared in front of us, especially about the importance of reducing new attorney caseload expectations, really made a big impact on us, and you will see those changes in the contract and that's directly because of the feedback that you gave us about how important that was. It made a lot of sense, and you provided us a lot of information about that. It was really, really helpful. And also your engagement with the data and really being so, I was going to say micromanage, but that's...

Tracy Prall: Right.

Jennifer Nash: I mean, just so like engaged to make sure you could assign attorneys really helped us because you had all of that data that other providers may not have had or other counties didn't have, and it was very helpful. And we really appreciated your input and the information that you provided both during commission meetings and directly to the agency. It's been very helpful. So, thank you. And if there, again, I'll say, if there's anything that we can do, please give us feedback and any, "Hey, here's something that we're seeing that maybe you haven't considered," please reach out to Director Sanchagrin and provide him. He's very, of course, as you know, receptive, and we are very appreciative of everything that you have done for us. So, thank you.

Tracy Prall: Thank you.

Jennifer Nash: Thank you for your time. All right. And now we will turn to Vice Chair Mandiberg, who's going to talk about the 2025 Commission Best Practices Survey results.

Susan Mandiberg: So, everyone on the commission got the survey and eight people responded. The report that was generated is in the materials and it's an excellent, I think, very easy to read report. And so, I thank Kim and Maddy for that. And so, I won't go over the report itself. That would be too time consuming but let me give a little bit of

background and some commentary. So, last year, 2024, was the first year that the commission did the Best Practices Performance Review ever, I think. We did it in June. And so, almost all of us were brand-new on the commission, didn't have much experience at all, and we decided to give the questions also, not only to commissioners, but also to staff members who had had significant interaction with the commission as of June. And that was very helpful to hear from staff members. It was confusing because as people have noted, then and again this year, some of the questions are not particularly clear, they're open to various interpretations, and we have never had an orientation session to discuss how to interpret those questions. That may be something we will want to do before we do these KPMs in 2026.

But this year, we decided only to give the questions to commissioners. They're not really questions. As you can see, if you read them, they're statements that people are asked to agree with – strongly agree, agree, no opinion, disagree, strongly disagree. We received that report and the Governance Subcommittee discussed it at our September 4th meeting. We did not have a quorum at that meeting, it was just a discussion, but the subcommittee does have recommendations to the commission as a whole regarding what kinds of responses we give to DAS and LFO, and these recommendations today are just for discussion purposes. This is not an action item. The disagreement, the one place where it's clear we as a commission need to do work, and that is in dealing with evaluation of the performance of the executive director.

We have as a commission never articulated performance standards for the executive director. We did not inherit any from the former commission. Last year, we did not undertake that task. I think for a couple of reasons. First of all, we were all still relatively new, trying to figure out really what the agency and commission were all about, but more importantly, the executive director at the time and the commission were focused on two squeakier wheels, one of which was the representation crisis, the squeakiest of the wheels, but the second was transitioning to the executive branch of government. That took an enormous amount of work, an enormous amount of attention. And it also involved, among other things, the commission having to give a number of very complicated reports to the legislature. And the executive director, of course, was involved in that. So, it was not a situation where there were normal executive director activities going on. However, it is obvious that we have to both put together a set of performance standards and we have to put together a method for evaluating whether the executive director is meeting those performance standards, and the Governance Subcommittee has begun to look into that. We will be coming up with recommendations for the commission to discuss and eventually as an action item to discuss.

In question three, if you look at the materials, the question was whether our goals and approaches are current and applicable, and that was one of the only questions where there was a fair amount of disagreement in the responses. And we think that

the disagreement probably reflects different interpretations of these terms. Our mission and goals are current in the sense that the commission spent a lot of time working on them last year, we definitely approved them, and they are applicable in the sense that the commission believes that the mission and the goals are geared to solve the unrepresented persons crisis. However, if you interpret current and applicable as being in sync with what other players in the system think should be going on, particularly how the legislature dealt with our budget, our mission and goals may not be current and applicable, and I believe that those different interpretations are reflected in the different responses to that question.

If you read through, and the report has both the numeric and the verbal responses or the textual responses, a number of the textual responses definitely reflect commissioner frustration with what's perceived as our inability to carry out our goals and our mission as the commission understood them last year, and that frustration clearly comes through in the comments. Another thing that clearly comes through in the comments is the, again, frustration I suspect with the amount of work that volunteer commissioners are expected to do without remuneration. For many people on the commission, this has become a pretty heavy part-time job, and again, that reaction is reflected in some of the comments. I think other than that, the report speaks for itself, and I'm happy to answer any questions. Oh, Tom.

Tom Lininger: Thank you for the report. And I wonder if we were to develop standards for the executive director, would our assessment of performance on those standards be publicly available or available to the governor, for example? Because it feels like lately our contentment with the executive director may not necessarily matter as the governor decides [Laughter] whether to retain the executive director. So, I just wonder what... Of course, I'm thrilled that Ken Sanchagrin is our executive director, he's doing a great job, in my opinion, but I wonder what the audience is for any report we generate on performance by the executive director.

Susan Mandiberg: Yeah. As far as I know, with regards to the KPMs, the only thing we're required to submit to LFO and DAS are the numeric responses to these questions. I am not aware of any requirement that we make our performance evaluation of the executive director public or that we submit it to anyone, although it may be that we do have to do that and I'm just not aware of it. So, that's one of the things that the Governance Subcommittee will be looking into. And if we are not required to make it public or to submit it to anyone, then I think that's a policy issue that we have to discuss. There may be reasons why it is advantageous for us to make that available and there may be reasons why it's not, that's not something we've gotten into yet, but we're looking into the way other commissions deal with some of this, and we'll take all that into consideration. But I think that's a good question. Thank you. Anybody else? Are we good?

Jennifer Nash: I was just going to say, I'm one of those people that struggled with answering some of the questions on the survey because one of the questions was, as you stated, whether or not we were meeting our goals and our...

Susan Mandiberg: Mission.

Jennifer Nash: ...our mission. It's a bad question because we want to, but we can't. So, that if we say no because we can't because we don't have the tools to do that, there's no ability to mitigate that. So, I wonder if there isn't some way. I know we can't change the questions because the questions are set out by the legislature, but can we in the future, when we provide that feedback on KPMs, incorporate those comments, as you have for us in the last couple of surveys, to basically capture that sentiment? Like we know what our mission is, we want to accomplish our mission, but we can't due to resource constraints.

Susan Mandiberg: I don't know, and Kim could answer this question better. I don't know any reason why we cannot submit commentary. We just haven't. So, if the commission... And last year when it came up for a vote, the commission decided not to submit commentary, if I recall. But when this comes up, when we present this as an action item, or certainly when we present it for discussion, if the commission wants to authorize itself to submit commentary as well as the numeric responses, I think it would be fine. And the Governance Subcommittee can certainly draft that commentary and have it available for the commission to adopt or amend or change. We're also maybe talking about modifying the way we do the numeric feedback next year. Instead of having five categories, have agree, no comment or no opinion, and disagree. That would make it arguably somewhat easier to interpret, and there would be fewer nuances to have to struggle with. So, this is all stuff that the Governance Subcommittee will take under consideration.

Jennifer Nash: Thank you. Any comments or bring up any questions or comments by anyone else or any other? All right. Thank you very much for that report. Very much appreciate it. Very helpful. All right, moving on next to, for me, a discussion of the commission meeting calendar for 2026. So, it's September, and we usually set out the commission meeting schedule far in advance. The commission meetings have generally been on a... In 2023, they were on Thursday afternoons. We switched those to Wednesday all day, or most of the day, in 2025. And there has been some discussion in the past about having different times on different days for commission meetings to accomplish more commissioners being able to attend. I know that Commissioner Harvey, for example, his job has prevented him from being able to attend many of the meetings. Understandably, he takes a lot of time off when he's here at these meetings to be able to come, and it's difficult for him to do that and also difficult for other people as well. So, I wanted this time to talk about what makes sense. I think we need to have a consistent meeting, of course, so that it can be planned for. There's also the idea of making sure that we space our meetings out

far enough that it gives time for staff to prepare meeting materials, which they need about 10 days to two weeks prior to the meeting to have.

For example, like our meeting for today, the meeting materials are published a week in advance, so they're working on them two weeks before, at least two weeks before. And so, we have to be mindful of that because that cadence ends up being like we have our meeting today in September, they're going to start working on things for October almost immediately. And when we have a situation coming up, right, actually this year between our October meeting and our November meeting, or is it the November to December? November to December is only three weeks because of the timing of the November meeting always being with the winter conference, and the summer meeting always being with the OCDLA summer conference, the June summer conference. So, we need to take some of those things into consideration as well. So, I wanted to lay that framework, lay that groundwork, and then open up for a discussion about whether we should have meetings in the evening times, whether we should have meetings on consistent days of the week each month, whether they should be every month, etc. So, I'm just going to open it up for discussion. And we also have to think about staff too for meetings in the evening, but...

Alton Harvey Jr.: That's been my only reason for not suggesting meetings in the evenings because most of you work during the day. And I think sometimes it's not fair for me to think that a meeting in the evening will be more convenient or easier for me. It's a little selfish, but I spoke with my CEO yesterday and she absolutely loves the idea that I do this work. I just can't be here during the day all the time. The out-of-city meetings, she's willing to accommodate for, but the day meetings, the morning meetings, if there was any way we could do something in the evening, it would be...

Jennifer Nash: I think it's not just you, right? So, we have commission meetings, not just for us, but we have commission meetings for providers to receive information or other stakeholders. And I'm seeing Mr. Thompson sitting here all day, taking a whole day out of his practice, out of court to be here. And we have other providers. I'm sorry, I also see, I don't have my glasses on, sorry. [Laughter] I also see Shannon Wilson here as well. So, I don't want to... Yes, and there may be other people here that I'm just not seeing because I'm half blind. So, accommodating other meeting times, that makes for a really long day for everyone, but I think it's not just you. I mean, it makes sense to do that as well. So, how do commissioners feel about having some meetings at least be in evening time or late afternoon to evening? And maybe for those meetings, we don't need to have every single...there doesn't need to be a five hour meeting, right? We don't need to have very, very long meetings. We do have the work group meetings that are in the evenings, which I think has been very helpful, but would it make sense to have some commission meetings in the evenings? What do we think? Anybody?

Philippe Knab: I would have a preference for evenings as well. Just makes it easier for me. Certainly, I understand the limitations that go about with it, but I think mixing it up and having some in the evening would be helpful.

Susan Mandiberg: I'm concerned about staff. If people work all day and then are also required to come to evening meetings, I think that's a problem. And I'm wondering if we were to have evening meetings, for staff that need to be at the meeting, either to give reports or as support staff, which we have a lot of support staff here, is there a way to give comp time off during the day to compensate for coming in the evening? Are there staff for whom evening meetings would be difficult or impossible, who need to be physically present to do the mechanics of it, for example? How would that work for staff?

Ken Sanchagrin: I think the main consideration that I would have to explore and bring back to you all, maybe at the next meeting, is it's one thing to ask management service folks who are outside of the union contract to. Flexing time is very easy in that sense. But for union staff, we would have to look at our contract and that could be problematic. And we could try our best to target items for evening meetings, maybe that would keep us out of that as best we could. But then sometimes, I mean, as we know there, we just have no choice. We have the cadence we have to keep. So, I hate to not have a clear answer, but we would have to explore that for any union staff.

Susan Mandiberg: Well, for me, that's sort of a bottom line that we have to work with.

Ken Sanchagrin: Yeah.

Susan Mandiberg: I understand for union staff, but even for non-union staff, I would be interested in knowing if there was comp time available to them, so they'd take off an equal amount of day time, if that's something that would be objectionable, even if it's something we have the power to do.

Ken Sanchagrin: I mean, I think if folks have enough notice for, usually I think we call it flex time, right? Then that works. But I know, and I've just taken my own experience with the Thursday night meetings, that you can have the best of intentions, but sometimes whether it's... I know in my family, depending on the time of the year, when I've got both kids, one's in Salem doing one activity and then my son has a different activity, maybe I'm coaching his team or something, it's more difficult to just make that work. Again, the more advanced notice we have, the easier it is. But then sometimes, like Thursday was hard for me this past spring, but now it's a lot easier in the summer and fall. And so, I think it does depend for staff. We have staff at very different stages in their lives. And so, they're going to have different issues to work through in that sense.

Jennifer Nash: I will say too, I think that since we started, and I know it's just relatively early, but since we started the work group meetings and now we're going to have the hour before the commission meetings, I feel like the commission meetings themselves will be shorter because a lot of the sort of things that send us off the rails during commission meetings, we don't have anymore because the questions and the things we need to work through we're doing outside of regular commission meetings. So, I think it's going to make it easier even if we have those commission meetings, regardless of what time they are, they'll be much more streamlined. And so, the amount of time that I think we're going to need for commission meetings will be shorter, which will help, regardless of what time we have the meetings.

Ken Sanchagrin: And I think that's part of our goal, certainly, as we've worked through the additional work group times. One thing that we would do at the Criminal Justice Commission is we would also, our quarterly meetings were much larger affairs. And so, we could also try to maybe do some evening meetings purposefully to be shorter and more focused just to make sure there's less of an impact, but we could try to actually plan out a calendar. There are things that are always going to come up but plan out calendars where some of the evening ones could be a little bit more. We could cut maybe some of the reports or things like that or streamline those or put them as information like we've done with the FCMS updates lately.

Jennifer Nash: I agree. And we used to, well, I don't think I was on the commission when this happened. So, prior to 2022, I think there were only nine meetings a year, but when the unrepresented crisis really became a really big thing, there was a lot of work that needed to be done very quickly. And we were, of course, transitioning to the executive branch and Senate Bill 337 and all that, and we started having monthly meetings. And at some point, it may be possible for us to pull back again and not have meetings every single month, keeping in mind that there are some action items that we're going to need to address, and we're going to want to make sure we have meetings that are linked to those action items, particularly around legislative reports.

Susan Mandiberg: I'll point out that in the bylaws, which by the way, we also, the Governance Subcommittee is also starting to work on amending the bylaws now that we're in the executive branch, but in the current bylaws, there are provisions for having emergency meetings. So, if we were to go to a different cadence on regular meetings and something came up, it would be possible, if needed to be dealt with more urgently, it would be possible to have ad hoc meetings.

Jennifer Nash: See, the other thing that I've talked about, we haven't had to do it yet, is we can notice the work group as a public meeting if there's action items, and we could substitute that in for if we have things that are more emergent that are true emergencies, we can notice those as public meetings with action items. They're already on the calendar. That gives us additional flexibility to deal with things that

come up, which I think is very helpful. I wanted to ask Tom about his teaching schedule.

Tom Lininger: Yeah, I'm so sorry. I think I'm part of the problem.

[Laughter]

Tom Lininger: I think I'm a big part of the problem. And I wanted to apologize to Commissioner Harvey that my schedule at work has made me lobby for Wednesday meetings, which are bad for you. And I echo Vice Chair Mandiberg's concern about being decent to staff. I used to be a county commissioner, and it was really hard on families for staff to have to stay till 9:00, and sometimes we were there later. So, I can only report what my obligations are in the year of 2026. If you need a meeting before 5 p.m., I can only do that on Wednesday. I would literally have to resign and that may not be the worst outcome, but the only day when I can...

[Laughter]

Jennifer Nash: Except we're already losing people like flies. Okay.

Tom Lininger: Well, maybe you could do better. But throughout the year 2026, I'm already scheduled, and my only weekday when I'm free before 5:00 is Wednesday.

Jennifer Nash: All right. That's good to know.

Tom Lininger: I would be, if whatever the outcome is talking with staff, I am sympathetic to Commissioner Harvey's situation. I would consider evenings, but with Vice Chair Mandiberg's concern about staff.

Jennifer Nash: No, that's important and helpful. We're down a voting member. We're going to be down at least one and maybe two more voting members, depending on whether or not Mr. Harris gets reappointed in time in January. So, I don't think we can afford, I know we can't afford to lose any more voting members.

Tom Lininger: Just to jump in, aren't you on through 2027, January 2027?

Rob Harris: Yeah. I think, yeah.

Jennifer Nash: Oh, '27?

Tom Lininger: I see it, I just looked at the order.

Jennifer Nash: Oh, oh, okay.

Tom Lininger: I just looked at the order.

Jennifer Nash: Okay, good.

Tom Lininger: You're through January 2027.

Jennifer Nash: Well, that helps. I thought it was '26. Okay, good. That's really great. So, it's just me. Okay.

[Laughter]

Jennifer Nash: That's fine. So, right now, we're down one voting member who we're awaiting appointment, and then we'll be down my position whenever, there'll be a gap.

Rob Harris: I'm going to throw something on the table there. I'd be fine with, I think, a full commission meeting every other month and then do work group the other months with the idea that we always public notice them. So, if there's an actual action item that needs to be put on there, we can do that. I don't know, and I'd leave it up to Emese and Ken, I guess, to let us know, is it important to have a monthly for action items? Because we used to, honestly, years ago, they did these quarterly. That may be too long of a gap. We really did more during the COVID in emergency. There were so many things happening. But if we could dial this... And I'd be fine with everything in the evening or on a Saturday or a Sunday. I don't really care, honestly. I'm retired. I can do anything.

[Laughter]

Rob Harris: So, I'm fine with whatever you guys decide on the timing of the day, but throw it out there, just like if we can shorten these to reduce the amount of obligation people have to either drive or cut short their day, their workday, I think that's important to keep the quality of representation we have. I think that's almost more important than having five-hour meetings every month and work groups on top of that. In fact, that's not a negative if people show up, but it can burn people out.

Emese Perfecto: And I just wanted to add that we could probably talk to staff as to when things need to come in front of the commission and look at if we could do it every other month for most everything. I'm looking over at Kim and Amy because they're the drivers of a lot of this. And so, I think we can get to a pace that would accommodate that. In the event that it's holding things up, we'll announce with some preamble that it'll be during one of our work group meetings. So, I think that's feasible. And the only thing I'd like to add is maybe it's an afternoon thing if that makes it easier for all the commissioners, but it's our managers. It would be very hard for them to not come in during the day when all the meetings are happening, that they are leading and have

to be part of for decisions. So, that would also be very tough even though we'd like to do that.

Jennifer Nash: Thank you. That was very helpful. I mean, I was thinking about that while we were talking about that. It's like they're coming all day anyway and they're just going to stay late. But the other thing we need to be careful about is the optics. So, we still have 3,500 people, 4,000 people, I don't know what the number is today, who don't have lawyers, and then we're going to reduce our workload. So, I think we need to be careful about the information that we're presenting and the perception that may occur if we reduce our meetings with a large number of people that are still unrepresented. So, I just want to kind of put that out there. That's why the items that are on that you see every month that are repeating items on our agenda are there because I added them because they're issues that come up repeatedly in legislative discussions, and so they need to be addressed. So, the FCMS report is on there every month because that project imploded. And then there was the commission, again, old information, but the commission wasn't paying enough attention and wasn't hands-on enough, and you need to pay more attention to that. Same thing. That's why there's budget on there every month so that we know exactly what's going on with the budget. So, some of these things are going to stay on there every single month, even if it's just by report. Unrepresented persons, that's on there every month because we need to know what's going on.

So, those three things are always going to be on, well, in 2025 anyway. Whoever the new chair is in 2026, I would suggest that those things continue to be on the agenda every month because they are important. And then of course, the director's update to provide just input about what's happened since the last time the commission met, and things that the director thinks is important for us to know. And then adding on top of that, any action items that we have. So, I do think, as I said, that we can probably reduce the amount of time. I know we've heard feedback from OJD that their request to have and our working relationship to have presiding judges come in is waning because that's not as necessary as it used to be. And we'll probably still want to do that for our in-person meetings to have an opportunity for the local providers and/or judge to come to whatever community we're in to present to the commission, but that's not going to be something that needs to continue through 2026.

So, with all of that being said and the input that we've received, I think it makes sense for staff and for the chair and vice chair, and Commissioner Harris has been meeting with us in those weekly meetings, to work on a tentative proposal for a 2026 commission meeting calendar and then send that out in a survey, I think, to commissioners to make sure that we'll have a quorum available. And then bring that back in October for approval so everyone can plan. I mean, I've got trials that, I won't be on the commission, but I've got trials that are scheduled into March already. So, people need to be able to plan ahead with their calendar to know, okay,

like as Tom, on Wednesdays at this time, I have this commitment, and I can't schedule anything else. That's very helpful. Any other input before we move on to the next item?

Susan Mandiberg: Yeah, I think that for things that are recurring, to the extent that a lot of detailed information can be included in a written report that is circulated to commissioners before the meeting and have the actual oral comments be more summary and focused on answering questions. I think that would help shorten the amount of time. I know that I assume most of us spend a fair amount of time going through the materials before we come to the commission meetings and I assume that will continue. So, I think it can be assumed that we have familiarity with a lot of the things that are then repeated orally at the commission meeting. So, putting some of those things into reports that are also available to the public because they're posted on the website would help to shorten some of the meetings.

Jennifer Nash: Well, and yes, agreed. And also if the information is provided in the written meeting materials and we have questions, then we can have questions and ask those during the meeting as opposed to having the information presented during the meeting, not having time to digest it, and not being able to have those questions answered.

Susan Mandiberg: Exactly, I agree. Yeah.

Jennifer Nash: And Director Sanchagrin.

Ken Sanchagrin: I just had two things, and one was consistent with what Vice Chair Mandiberg was mentioning, that perhaps we could have something, instead of a director's report, it could be a monthly director's newsletter. You are the primary audience, of course. It could be sent out to whomever wanted it, but then that could serve the purpose of a lot of these basic report outs that we normally do per month. But the only other thing I wanted to put out there, and perhaps this is something that staff could work on, is I understand, and I also, as somebody who's very regimented, would like to have, if it's every other month or something like that, just a cadence. But I think that too, when we look at the statutory duties of the commission, that may be what drives the cadence.

So, for example, if we're going into budget development for 2027, we may need some back-to-back meetings, especially if we want to engage in a robust kind of public comment period with our providers as we build that budget, both as an agency, and then you all as approving it for the agency request budget. So, maybe there are some points, if we actually build out a two-year calendar, at least from an idealistic perspective, we may not be able to decide what day everything should be on, but it's like we need a meeting in October and November pre-budget, at least meetings those two months consecutively to get that hammered out. Or after long sessions, when we have a lot of reporting that's due, I'm sure that Lisa has a lot of

thoughts on like when we need to be able to get your approval on reports to get that to the legislature. And so, we may not be able to do something where it's just as simple as saying every other month. That would just be my one point of caution.

Jennifer Nash: I agree. I meant to bring that up and that's a good point that during, well, really, it's the even years almost before long session, we're going to need to meet more frequently to develop budget POPs and things like that. So, it's not going to be as easy as just saying every other month because we have things that we need to...

Ken Sanchagrin: Right, but then also during the slightly leaner times, maybe there could actually be two to three months to go by where there's some work groups to talk about ongoing issues, but we may not have as many action items, or maybe short meetings just for the action items in between two work groups on two non-consecutive months.

Jennifer Nash: That's a really good idea. And on that note related, the November meeting is on the calendar, is tentative on the calendar because we may not have a number of items. We do have some items we have to deal with in November, but between now and the October meeting, we're going to be taking a good look at that because we do also have the work group scheduled, to see if we can, definitely we'll shorten, but maybe eliminate, we'll have to see, the November meeting. We do have some things we need to vote on. Can we do those during work group? Do we just need a short meeting? We're going to be making that decision because there is such a short period of time between November and December that we're going to try, we're going to be respectful and mindful of people's time. And then the December meeting will be in person in Portland.

Ken Sanchagrin: And for those, especially, I mean, we won't have new financial information, for example, or new reporting from providers on the 5th of December. And so, we'll be presenting information from November anyway. And so, I think our tentative plan had been to, for a lot of our standard reports, to not do those in November. Just two weeks later, we'll be doing it in December for folks.

Jennifer Nash: Okay. So, more on that to come. All right. And then moving on, I'm a little behind. Sorry about that. Moving on to discussion regarding time travel and expert services, which has me on the agenda, but also, I anticipate, I think, I'm going to be getting information from Mr. Amador, or no? Do you have data for us? No. Okay. No data. That's all right.

So, we discussed this in our last work session, ongoing discussion regarding travel. Well, let's call it not travel expenses. Let's call it balancing the budget for PAE and Court Mandated Expenses because that's really what we're talking about is we have a shortfall in those two buckets, and we have to figure out a way to address that. The commission's had a number of discussions about that. We've received some

information from staff about that. My thought regarding how to proceed is to continue to have a discussion today and at the next work group meeting about that. At the next work group meeting, I'd like to provide very specific direction to staff about what we would like to see in policy changes to address the shortfall. And then in the October meeting, vote on those. That's the ideal situation.

So, where I think we have ended up and the things that we have been talking about, and I want to kind of broaden the discussion. We've been really focused on travel expenses, but then there was some feedback. I had a couple of meetings, one meeting with staff after our work group meeting, where we talked about the difficulty that the agency has with not having real guidelines about what should be approved and not approved for expert witnesses and other extraordinary expenses. Because we don't have to recapture this money just by dealing with travel. That was just an idea of how to do it. We need to just reduce the expenditures, and other commissioners have talked about, well, can we do this? Could we do that? What are we looking at here?

So, if we broaden that picture and we say, all right, what are we approving? What are we not approving? The feedback I'm hearing and the feedback that other commissioners have heard is we don't have guidelines. It's what's reasonable and necessary, and that is huge. And so, I heard information that there are a large number of expenses that are approved almost without a lot of scrutiny. For example, on non-person misdemeanors and non-person felonies for mitigation psychological evaluations. And those are about \$4,500 a pop. And the question is, why? Do we need those? Should we have them? What are we doing? So, I thought we should discuss whether or not we ought to be providing some specific guidelines for providers, lawyers, and staff about what kinds of things are going to be approved automatically – well, almost automatically. What kinds of things are going to need additional scrutiny? What kinds of things we aren't going to approve unless you show us that it absolutely has to be done and here are the compelling reasons why. Because I think that's really the broader issue, and if we can deal with that issue, I suspect we're going to be able to recapture and reduce our overall expenses.

One of the comments that I heard back was that we used to provide a Cadillac defense and now we're providing a Maserati defense. And again, I mean, not to say that defendants who are charged with crimes, and parents who are having their children taken away from them, or children that are accused of crimes, aren't entitled to and should not receive robust defense because they should within appropriate, reasonable, and necessary. And two, Commissioner Knab talked about, wow, this is a huge budget based on my experience in my other commissions and other practices that I've worked in and similar things like, why are we spending this much money? And we've also heard that other states, that we spend, from staff, that we spend a tremendous amount of money per case relative to other states as well. So, I think that's something that we should look at and we should talk about,

and I'm inviting you all to talk about what kinds of guidelines we would like to put into place for these expenses.

Susan Mandiberg: Do we have any data about what kinds of expenses we are spending the most money on compared to the number of cases in that category? Ms. Schabert, do we have that data?

Amy Schabert: We do have the data, yes, sorry.

Susan Mandiberg: It would be super interesting and useful.

Amy Schabert: We can absolutely pull that.

Susan Mandiberg: To have that. Yeah, great, thank you.

Jennifer Nash: And maybe you can just send that to us the way that you sent the Marion County information last time to us so that we can have that. It'll inform the work group discussion next time because I think that would be really helpful information to have.

Susan Mandiberg: So, the categories of cases where the most money is being spent, some idea of how much that is, and the numbers of cases in that category for the same time period, something like that would be amazing. Thank you.

Jennifer Nash: I also want to know how much money we're spending for expert services, not investigator, but expert services for non-person misdemeanors and non-person felonies, on C felonies.

Rob Harris: Two thing... One thing at least, talking about standards, yes, I think we need to, and I'm going to suggest it's sort of a 30,000-foot standard, but reasonably likely to affect the outcome of this case. So, most of us have done retained cases where maybe there's someone charged with an offense, a misdemeanor offense, and you say, "Well, we could do a psych eval, we could shrink them, we could do this, we could poly, we could do all this stuff." And they say, "How much is that going to cost?" And I said, "Well, \$5,000." And they're going to say, "But the key question is will it make a difference?" It isn't always the cost, it's will it make a difference to me? Because people do weigh that. And so, I think that's a reasonable way to approach it. Is it reasonably likely to affect the outcome of this case? And in some ways, like how much? Like it's going to cost 20,000. Yes, it'll affect the outcome. Maybe the offer is 10 days in jail, but you'll get zero days in jail or 5 days in jail. That affects the outcome. So, there probably is a waiting too, is the cost versus the outcome. But I think if you look at it from a reasonably, yeah, reasonably affect the outcome. I think that's...

Susan Mandiberg: Is there a way to assess that without asking lawyers to reveal information about their cases?

Rob Harris: Well, I think people do that when they make their requests in some cases. I mean, I think if you say, look, we automatically, almost automatically, this normally affects the outcome. We're going to approve this. It doesn't, but you can make a case for it.

Jennifer Nash: Well, I think we can give specific examples about what reasonably likely to affect the outcome would be.

Rob Harris: Sure.

Jennifer Nash: Because you're saying that, and I'm thinking, what you said, 10 days.

Rob Harris: Yeah.

Jennifer Nash: So, change the disposition from prison to probation.

Rob Harris: Sure.

Jennifer Nash: Change that. So, I mean, I think there's a list in the Trial Support Division and other, that agency staff knows that list, that could be subcategories of that, reasonably likely to affect the outcome, such as, and then that list.

Rob Harris: Yeah.

Jennifer Nash: Reduce the number, reduce the duration of prison, change the disposition, receive optional probation, receive a deferred, whatever, you can come up with that list. But I think we do need the list because reasonably likely to affect the outcome is a whole lot different than reasonable and necessary.

Rob Harris: Yeah, that's what I mean. But I'm saying that there may be some categories where it's automatic, right?

Jennifer Nash: Sure.

[Crosstalk 04:15:42]

Rob Harris: We're going to give it to you. It's going to be approved. But when it's on the not default approved, then maybe the requester would have to talk about why it will, in this case, reasonably affect the outcome. Yes, there may be some information, they may have to couch it in a certain way. But at least it makes people think also about why I'm doing this.

Susan Mandiberg: Another thing that occurs to me, although this is touchier, maybe I'll offend somebody by even mentioning it, but is there, so if we focus on psychiatrists or psychologists, that kind of expert, not investigators, is there a way to break down the data by type of provider, nonprofit, consortium, hourly, THIP, to the extent that we have data from the old THIP program? I would find that interesting. I don't know if it's possible to do that.

Amy Schabert: That's much tougher.

Susan Mandiberg: I would imagine that's tougher. Yeah. Yeah. Okay.

Jennifer Nash: I also have a thought which dovetails very nicely into our earlier item. We have a list of best practices for performance standards, and those best practices outline seeking expert services for certain types of cases. And so, perhaps we can link those, use that same language and have those work in tandem. That will help, I think. Also, my other thought, not my thought, this is from our list at the last work group. Should we limit expenses approvals, I mean, to Oregon providers only, except for extraordinary circumstances where you can demonstrate that there are no providers that could provide services within the state? And if you do that for an out-of-state provider, also having some parameters around payment of travel-related out-of-state providers. I think that would be helpful. We think that would be helpful.

And then the commission, or at least me, and I'm sorry, I have to say I'm not sure, I looked at the email to see if it went to everyone, received a letter from former Commissioner Reinhard with some thoughts regarding the proposal for travel guidelines, and one of the things he suggested, which I had never thought about, was that we should have some guidelines around how to bill when you are going to visit multiple clients, which makes sense. So, if you're driving from – he says he takes cases all over the state, and if he's driving four hours to see two clients, there should be some guidelines about how that's billed to ensure that there's no double billing that's occurring. I thought that was very helpful information and something I had not thought of. And also, if you're traveling to see a client that's retained and a client that's appointed, how you're going to bill that so you're not double billing. I'm sure that's a very small piece, but I think that's still helpful.

Rob Harris: Oh, I remember what my other thought was, excuse me.

Jennifer Nash: Yeah, no, go ahead.

Rob Harris: But since you've made me think about it, I do think we need to pay travel time. I've always thought we need to pay travel time, whether it's 100% or 75, 80%, I'm probably undecided on that. Maybe with a low level of hourly pay, 100% is fine. The juice ain't worth the squeeze, as they say. And I think approving that and just working on the expense items from PAs from these other ways are the way we're

going to balance the budget over the next 22 months. I just think we need to pay travel time.

Jennifer Nash: Yes, no, I agree. I think that's why it's really helpful to have the broader discussion about the budget rather than talking about travel time because it's not really travel time. I think what I've heard from commissioners across the board is that we are not really interested in reducing travel time because it just doesn't make sense to make people work for free or less. So, how do we recapture or how do we balance our budget and ensuring that people are paid for the work that they're doing? So, are there other ways we can do that? So, I appreciate that very specific point, and I want to make sure that providers know that we don't want to cut travel time. That's why we're talking about these other things. Also, we'd like to receive information about whether or not it makes sense to limit the number of hours that are approved. I know that happens already, but is there some revision that staff thinks would be helpful? So, you get, whatever, I'm just making this up, 20 hours and you have to come back and ask for more. I know there are limits now, should those limits be revisited?

Also, we would like some feedback about whether or not it makes sense to change some of the short form versus long form. Everything used to be you had to provide an explanation for every single request, and then it was almost everything is approved at a certain level. Now, should we find a happy medium and pull some of that back to where you are not automatically being approved for certain things, but you have to tell us why? I mean, I know one of the things that is on a short form now is a psychosexual evaluation. Maybe we need to pull that back and you have to show us why you need it. I don't know, you tell us, you're the experts on this, if you believe that that would be helpful? I also know this is very difficult. This just popped into my head. It's very difficult to quantify, but if there was a way to give us information about how much you believe, using your best data and estimate, this would save us, that would be helpful so that we can make informed decisions about that. I mean, great, we make all these changes, and it saves us \$25. It's not helpful. And then, let me look at my list and make sure I have everything. That's everything that I had on the list from our work groups. Is there anything else that people can think of that we want from the agency or that we would like to see in proposals to change policy or guidelines?

Rob Harris: The one comment I would make, and maybe this is really more of a question, is Federal Defender here has a 60-page billing manual. A lot of the things we're talking about, like travel time allocation for multiple clients, I believe are addressed in there. I'm not saying do the way the feds do, but you've got to understand, many of the lawyers are on the federal panel, so they already know how to do this, number one. Also, number two, we're competing for their time, so we don't want to make it any more difficult than it is to bill for the feds. And just as a matter of guidance, if

you haven't already done it, perhaps staff could take a glance at that and maybe they would get some ideas.

Jennifer Nash: That's a great idea. We don't have to reinvent the wheel. Are there any questions or comments from staff to us? Do we need to be clearer, or do you need information from us?

Emese Perfecto: I'm just chuckling that Amy is over there and I'm sure she has some questions.

Amy Schabert: No questions.

[Laughter]

Jennifer Nash: Come on up, Ms. Schabert. I'll put you on the hot seat. We're actually trying to make your life easier, and I know it's a big, long...

Amy Schabert: My old life? My old life is here?

Jennifer Nash: Your old life, that's true.

Amy Schabert: Yes, my old life.

Jennifer Nash: This is not your current life. That's right. So, just for a refresher, Ms. Schabert actually is not the manager of this department, but she's still...

Amy Schabert: No, I'm the former manager.

Jennifer Nash: Yes.

Amy Schabert: Thank you, Chair Nash, members of the commission. For the record, Amy Schabert, compliance manager. But in my former life in PAE, you are correct. We rolled out several short forms. And some of those things, as you mentioned, came about over time and grew over time. I would not change the psychosex eval and the accompanying polygraph. That is something that we hear all the time, that DAs will not even begin to negotiate a case until they see that.

Jennifer Nash: That's helpful, thank you.

Amy Schabert: And that form is pretty comprehensive. It asks, is this the first request? Are the charges of a sexual nature? It asks other things, but they're tucked away back there. When we met, our conversation, I think, went in a good place because where I believe we struggle is with the non-person misdemeanors and the non-person C felonies. We spend a tremendous amount of money on psych evals for those case types. And Commissioner Harris, I hear what you're saying about outcomes, and I

can tell you that some of the things that the PAE staff read are things like, "Well, we're trying to avoid jail," on a disorderly conduct. Is five days in jail versus 12 months of bench probation, is that a better outcome? I don't know, and I don't know that we're the ones to say that. So, as you're looking through these things, I think you're going to see the biggest bang for your buck in that area because as you reduce the number of evaluations, I mean, we have evaluators traveling from Portland to Medford to do psychological evaluations because there aren't enough evaluators in Medford, and the people in Lane County are tapped. So, you are going to see not only the cost of the evaluation being saved, but also all of the travel that goes along with it. That would be, if I were you and I were going to look at it, that's where I would start.

Jennifer Nash: Okay. That's very helpful. Then that's what we're going to ask you to do, right?

Amy Schabert: Ralph to do.

[Laughter]

Jennifer Nash: All right. Not you, but all right. That's very helpful information. Thank you.

Amy Schabert: Sure. And I'm happy to answer any questions that you have.

Philippe Knab: I'm curious as to the overall, and I appreciate that this issue has been kind of raised from the specific travel issue to kind of the broader issue. I wonder if you have kind of longitudinal data on what these total costs have been pre-pandemic to now and if they've increased or if they've been at this rate for how long we have data for.

Amy Schabert: I think we can go back to, I think, 2015, and I'm going to look over my shoulder to Maddy because I think the PAE database goes back to 2015, if memory serves. I mean, so we could go back close to a decade to see how these costs have increased. There was a time when we used to not pay for psychological examinations on misdemeanor cases that were non-person. That was 15 years ago. It wasn't even a consideration. And as administration has changed over the last several years, kind of the pendulum swung the other way where everything is reasonable and necessary. Not everything, but you get my drift.

In terms of out-of-state providers, I would tell you this. There is a requirement in the policy that counsel demonstrates to the agency that they have attempted to locate in-state providers first before we will even entertain bringing someone in from out of state. We have a limited number of people in the state that can do some kinds of work, and going out of state is not unheard of. I'm not going to say it's common because it's really not all that common, although we are seeing more of it. And generally speaking, that is on only the higher-level cases. Again, if it were me, I would say, and generally speaking also, the out-of-state providers have a higher

rate. So, if you say yes to the higher rate, in my opinion, you should not then be paying an additional 20 hours of travel time at \$500 an hour. And I think that's where the real overall cost comes in when you're bringing people from out of state. It's the travel.

Jennifer Nash: Sure. I mean, if someone's flying and it takes them 10 hours to get here and you're paying \$500 an hour, that's crazy.

Amy Schabert: That's a chunk of change.

Jennifer Nash: Yeah. So, that makes sense to look at that.

Amy Schabert: Okay.

Jennifer Nash: That's very helpful.

Philippe Knab: I have just one more question, and it may have been a misunderstanding in a conversation, but does the Office of Public Defense pay for expert witnesses for retained lawyers' clients?

Amy Schabert: In some instances, yes, but I would like to clarify that. The client must have qualified for extraordinary expenses. So, the same finding is found by the court, all right, that the client would qualify. For example, if a client has a grandmother who goes up and retains counsel for them, but the client would qualify for court-appointed counsel, the court can make a finding that the agency is responsible for extraordinary expenses, in which case, yes.

Philippe Knab: Do you know, is that a significant expense or is that a small expense?

Amy Schabert: It's small.

Jennifer Nash: It's tiny. And that is exactly the situation. It's family members who can sometimes afford to retain an attorney because the expert fees and investigative fees are paid by the state. Questions, other comments?

Alton Harvey Jr.: Five days in jail are way better than 12 months of bitch probation.

[Laughter]

Jennifer Nash: True story. Okay.

Susan Mandiberg: All right.

Jennifer Nash: All right. Thank you. That's very, very helpful. And I think with that additional information, I think we really do want to focus on the cost for evaluations on non-person misdemeanors and non-person C felonies. I wrote down misdemeanors. And then looking at proposals for limiting travel time for out-of-state providers, the two big things that we should probably tackle first. And then just I would say one additional thing to consider, and that is to have in the policy specifically that whenever possible, even though we know people do this probably, to try to obtain an expert that's close in geographical proximity to the county where the case is. Understanding that people probably already do that, but I think it's helpful just to have that in the guidelines anyway because the guidelines are for long-term consideration.

Philippe Knab: I would just add too that I do think looking at travel policies and assessing travel policies that would incentivize minimizing the cost in those spaces, so changes you can make to incentivize remote appearances when that's possible and not harmful to the proceeding. And so, just finding kind of economic ways to provide some incentive for those.

Jennifer Nash: Yeah, I think that's helpful. Thank you. I think that's helpful to have in the policy as well. And I know we've received some information from providers, expert providers that say that whenever possible, they use remote or video, but a lot of their, especially for evaluations, need to be done in person, which I respect and makes sense to me. But just having a sentence in the policy regarding whatever work that can be done by video, including attorney remote appearances. That attorneys should be required to seek permission for non-substantive appearances remotely if their office is more than X number of miles from the county court, I think would be helpful. Or, I mean, I guess the other thing is, if my client was appearing in court, if the court required my client to appear personally, our rule is we appear with the client. We don't appear remotely. So, you wouldn't want your client to have to be there but you're in your office. But anyway. Anything else that we want to provide? Okay, so for our next work group session, if you could come back to us with some suggestions for policy changes that are consistent with this and just a estimate to the best of your ability about how much you think that might save, that would be helpful. Okay.

Philippe Knab: I do want to add one other point that I think that the district attorneys requiring these high-level evaluations to enter into basic plea agreements is another example of the costs being borne by the public defense system being more appropriately costs that should be borne by our criminal legal system more fully, not like what was mentioned earlier, essentially the kind of least able to control policy and control time and data. So, to the extent that this is something that can be brought up legislatively or addressed in another avenue, this is an extraordinary cost, \$100 million. And the fact that it's sitting in the public defense system instead of where it probably more appropriately could be is I think just a problem.

Jennifer Nash: Also with discovery, but that's a whole 'nother because we pay for discovery that we shouldn't be paying for. And there's no statutory, I could get on my soapbox about that. There's no statutory or any authorization that requires defendants to pay for discovery, and yet we have this massive amount of money that we have to pay district attorneys for discovery that they're required to provide with no authorization to charge us. So, that falls right in that category too. Okay, all right. And I'm still late. So, moving on next, thank you for that discussion. I think that would be very helpful. And I think we'll be able to address this very quickly by October, hopefully make some substantive... And I mean, the other thing is, we'll know. This will get us to a certain point in the biennium, where we'll know whether or not we're still going to have a shortfall and have to make certain adjustments, but this will be a big chunk upfront that will hopefully mitigate the hole in the budget. Okay, with that, moving on to the director's update, Director Sanchagrin.

Ken Sanchagrin: Thank you, chair. I'll do my best to keep us at a 2 p.m. wrap up time. Mara, if you'd like to go to the first slide, I'm going to try to touch on a couple items very quickly, but I'm happy to take questions if you think I'm moving too fast. First, as always, we have kind of our upcoming dates of meetings in the future. Our Governance Subcommittee is meeting on October 2nd. That's where, as Vice Chair Mandiberg discussed, we hope to discuss the evaluation of the executive director and other updates to the current commission bylaws. Our commission work group meeting the same day in the evening. As we just discussed, we'll bring back travel and expert services proposals, and we can continue to talk about our criminal attorney performance standards. And then we also have our October commission meeting that will be virtual. Next slide, please, Mara.

One thing I want to put into the mix that is not on this slide, just because it came out yesterday, is just to make sure that the commission is aware if you did not see the articles in the Oregonian or elsewhere that the governor gave all agencies a letter yesterday about the current budget climate, and that's really driven by what we've seen in the revenue forecast. And what's been interesting about the revenue forecast is that while the economy in the state remains relatively robust, the real concern that we have is declining tax receipts due to our tight coupling with the federal tax system. And so, we're projecting a \$372 million hole or about 1% of the total legislatively approved budget.

And so, what the governor asked agencies to do yesterday was first to, as much as possible, slow General Fund expenditures. She also had DAS through the CFO identify target reductions for each agency, and then also to limit or eliminate any unnecessary out-of-state travel. The third one, I think, impacts OPDC the least. We don't send too many folks out of state for the agency on agency business. The one that I think that we are the most focused on is that target reduction, which for OPDC, the target is set at about \$1.12 million. Those targets, there can be

discussions with the CFO as to how to meet those. I think the expectation is that those reductions could be incorporated into a 2026 rebalancing bill. Oftentimes at the beginning of session, there is an early session bill that does some budget tweaks. And so, that might be something that could be built in at that point. And so, that's something that staff needs to begin looking at, and we'll be in conversation with you as we roll into 2026 while we work with the CFO. And so, I just wanted to make you all aware that that is in the offering right now.

I'll also just briefly mention for our FCMS update that we have narrowed down our proposers to two. Tomorrow on September 18th, the Evaluation Committee will provide phase two, round two results, options, and recommendations until we continue to move forward with FCMS. So, those are my quick ones. The other two that I have are pretty much tied together, contracting and the governor's letter. So, from a contracting perspective, we have been reaching out to all of our contractors over the last several weeks that began about two weeks ago. We do have a few contractors who have not had meetings with our analysts as of this time. That's primarily come down to just availability of scheduling with those folks. All of the other information at least has gone out to contractors, the basic information about what we are seeing or what we are predicting for the needed FTE and the MAC in those different areas.

So far, we have been getting out, or we have legal sufficiency on our criminal and hourly contracts. My understanding is we should have legal sufficiency in the next day or so for juvenile contracts. We hope to have 50 or 60 contracts out the door to providers, I believe tomorrow, if I remember Amy talking to me in the hallway correctly, but we hope to have the bulk of them out by the end of this week is our aim so contractors can see those. And so, those are, at least, those are moving. As far as some of the contents of those contracts, I was going to include those in some of the discussions of the interventions in the governor's letter that were identified because many of those interventions were tied to contracting. So, I was going to go kind of in the order that they were included in the original letter. So, first, we have been soliciting interest and participating in the 115% programs, the ability to go over in areas where that MAC is needed. So, far we've had 45 individuals express interest in participating in that program, but we're also waiting on some confirmation from several contract administrators as they reach out to their membership. And so, it is our hope that that number will grow.

Jennifer Nash: Are those all in crisis counties?

Ken Sanchagrin: We are looking beyond crisis counties as well.

Jennifer Nash: Okay.

Ken Sanchagrin: So, for example, in some counties, the fact that our providers have been going over MAC in some counties is really all that has kept us from crisis in others. And so, to the extent feasible within the budget, we want to be able to compensate those providers as well. That money would not be coming out of the appropriation that was made by the legislature to pay for. There's some overage money specifically available for crisis counties, but since we were funded for the caseload, we're just trying to meet the caseload in those counties, which we think we should be able to do through using those funds. So, let me see. So, the third intervention is one that I will have to come back to this commission on. That is the one where we wanted to look at the impact of the decisions that were made prior to my arrival on contracting changes for vacancy savings. It's a little bit early without contracts being signed. It's a little bit early for us to know what those savings are, so we'll come back for those later.

The one that I want to talk about though is looking at increasing lawyer FTE and MAC. So, the staff engaged in a very detailed process as it was developing our contracts for this current cycle, and what they tried to do is they worked with the information that was provided by the DAS economic folks, Michael Kennedy and his crew. So, the forecast. They took the forecast, they took our current case information that we have for counties because those don't always completely align, but then they also tried to take in the qualitative information about what they know about their local jurisdictions. And so, through a combination of those things, we were able to come up with what the forecast might predict a county will need, what we have data that shows a county likely needs, and then what historically we know about the dynamics in those counties. And so, when we went through the counties and the providers one by one, there were some counties that, as you've heard through public comment, there are some reductions, perhaps there's some reductions to one provider that is then filled into another provider. One of our overarching goals was to try to right-size the MAC, both within a provider and within a county, as best we could to match with our data. As I mentioned, it doesn't always work out.

For example, in the Office of Economic Analysis forecast, we know that the data that we get that feeds into that forecast regarding Jessica's Law is very wrong. [Laughter] It predicts only two cases per year over the next two years that would be Jessica's Law cases in Multnomah County. And so, we know that we would be under contracted in Multnomah County if we solely follow that information. So, we are not solely following that information in Multnomah County. And so, there are some tweaks, there's some moves, there are some overall net reductions in some counties, there are some large net increases in other counties. And so, in the end, when we look at the statewide differences between FTE in our upcoming contract cycle, so for '25-'27 versus '23-'25, we will be increasing FTE by 44.83 FTE. That would equate to 22.65 MAC increase across the state. We can provide the commission with a rundown of what that looks like county by county.

Jennifer Nash: Can you tell me the FTE again was forty...

Ken Sanchagrin: 44.83.

Jennifer Nash: 44.83, which is 22.62 MAC.

Ken Sanchagrin: 0.65, yep, 22.65. And so, like I said, I could follow up with that after the meeting.

Jennifer Nash: And you'll send us a list of...

Ken Sanchagrin: It'll be counted by county.

Jennifer Nash: A breakdown?

Ken Sanchagrin: Yeah.

Jennifer Nash: Okay, yep.

Ken Sanchagrin: Yep. Let me see. So, another intervention that we will just have to wait until next month is the law school contracts are still in negotiations for those, to get those in place. And then finally, my last one was I had a long list of information on the Trial Division. I could turn that into a written update that I could send out, but also Mr. Jeffers, I think, did a very good job of going through the details. He was pretty much spot on for all of those, and I think actually Judge Prall touched on a lot of those, or like what we were going to do in Marion County as well. And so, actually, I'll leave this last five minutes for questions if you all have it so I can get everybody out on time.

Jennifer Nash: So, no question from me yet. Maybe not at all, but just a comment. I think having the information, we've already talked about this a little bit, but having the information that you're providing us in a written report ahead of time would be helpful because then we can digest the information and ask questions about it, and I also want to be cognizant of providers and other members of the public not having information easily that we're getting after meetings, which would probably be helpful to have ahead of meetings so they can make public comment if they wanted to.

Ken Sanchagrin: Certainly.

Jennifer Nash: So, I think that would be helpful.

Ken Sanchagrin: And I'll endeavor to do that. I think that some of the information, and it's not solely because I was bad and on vacation, but some of this is literally like as of 8 a.m. this morning.

Jennifer Nash: No, I understand.

Ken Sanchagrin: And so, I think as we talked about with the schedule of getting the information out, I can provide a written update, but I think I'll always have more the day of. Yeah. More than happy to do that.

Jennifer Nash: Questions, anybody?

Rob Harris: Maybe I misunderstood, but you said 44 FTE, but only 26 MAC or something. Can you explain those two numbers to me?

Ken Sanchagrin: That I would have to phone a friend to Ms. Schaber who seems to be the star of this show, this go round. [Laughter]

Rob Harris: I mean, FTE's usually full-time equivalent, right?

Ken Sanchagrin: Right.

Rob Harris: So, I'm wondering are these part-time lawyers? Like you're adding a 0.5 here and a 0.7 here, or are you talking, no, they're supervisors. So, they're not taking.

Ken Sanchagrin: Well, and actually I think you're hitting on actually two of the different issues, and I'm glad you mentioned the supervision piece as well. Not directly to your question, but to supervision itself, we have rejiggered the supervision approach a bit, though I will say that we have not followed through on a prohibition of IVs supervising IVs. I know that was something that this commission discussed in one of its prior meetings. We have retained supervision for IVs supervising IVs in PCR. We've also done it in our statewide contracts. We've tried our best with limited budget availability and with the attempt to expand some supervision ability to the consortia to right-size that as best we can.

I'm also committed to and would really like to engage in conversations in the future with providers on the best way that we can talk about, sell to the legislature, and then fund what has been called supervision. But frankly, as somebody who's probably the newest person in the room on many of these issues, the use of the term "supervision" really confused me in the beginning. I think we're talking about a lot of things. We're talking about supervision, we're talking about training, we're talking about mentoring, and I've even gotten tied up talking to some of our providers when I'll say, "Well, we don't pay for training." Well, we kind of do, but we kind of don't. And so, I think that we need to have some conversations as we go into

the next budget cycle too, and I think we can actually be united with our providers on a better way to sell this to the legislature because I think that's where we do run into trouble sometimes when we're talking to the Public Safety Sub and we're talking about a supervisory relationship.

First, they may not buy the idea of IVs supervising IVs, but then I think they also envision it the same way that I might've when I came in to think, "Oh, well, this means you're approving somebody's time," which I know that doesn't quite fit. But when you think like supervisory, pure supervisory relationships, as opposed to lawyers who oftentimes have novel legal questions – you have to come to other lawyers, need to talk through how you might get through this tough nut to crack – or you might have an especially high-profile case that you need to talk with your colleagues about. And so, that's something that I'd like to work on, but I'm now, if there's anything beyond supervision and then just part-time lawyers accounting for that.

Jennifer Nash: What's the reduced capacity? So, SPP lawyers and first year or whatever the lower-level lawyers, the first year that we reduced their caseload capacity would increase FTE but decrease...

[Crosstalk 04:50:25]

Ken Sanchagrin: Right.

Jennifer Nash: So, that's a huge part of it.

Ken Sanchagrin: And we've found the SPP lawyers, the caseloads that they can carry are quite small, and smaller than the reduced caseload capacity lawyers as well. Yeah.

Jennifer Nash: When we first – we, the commission – first got the money in special E-Board for supervision, it was under training and supervision.

Ken Sanchagrin: Mm-hmm.

Jennifer Nash: That was the category. We actually got a pot of money and then we had to decide how to divide it up, and that was one of the categories. And so, we lumped together training and supervision, which then morphed into supervision. And then you're right. I mean, supervision can mean a lot of different things, and it doesn't necessarily mean did you come to work at eight o'clock today? Did you take your lunch at 12?

Ken Sanchagrin: Right. Yeah.

Jennifer Nash: Yeah. Okay.

Ken Sanchagrin: Right. But I think we could work on the verbiage of that, and I think we could make a better sell for that in the future.

Jennifer Nash: Questions, comments, concerns about anything that we've heard? Have you heard any feedback from providers that they are, every contract cycle we have and, "We're not signing this contract." And then almost everybody signs. Have we heard some strong feedback about people who are considering not signing contracts?

Ken Sanchagrin: I have not been told of anybody at this point who has specifically said they will not sign, but I know that there are some folks who are much happier or much angrier than others. And so, I would suspect in the coming days that we may have some of those conversations, just being a realist, that there may be some. But my thought is it will not be a large-scale push like I've heard about in the past.

Jennifer Nash: I forgot, and I know. I talked to Director Sanchagrin about expecting that commissioners will receive information from providers because we typically do, and if you receive any emails or any phone calls or anything like that, we should just forward those to him without comment.

Ken Sanchagrin: Yes. Please do.

Jennifer Nash: So that we can be sure that the agency is addressing those concerns and that it is unified and that everybody's getting the same information. So, if you receive any emails. Also for members of the public, don't send us any emails.

[Laughter]

Jennifer Nash: I mean, you can so that we know, but we're not going to be able to comment on them. We're just going to forward them to the agency. We do not, in our statutory duties, we do not have direct authority over contracting. That is not one of our statutorily enumerated. We don't approve those anymore. We want to be very careful that we are not providing information – by "we," I mean individual "we" – are not providing information to providers that's not coming from the agency. So, we're just going to forward that on, and then they'll respond directly.

Ken Sanchagrin: Yes, thank you. And we've had outreach from legislators and others, and primarily when we've been able to at least show the way that we got to the decisions we've made, they've at least seemed to go away at least satisfied, at least with the information. They may not be happy but satisfied with the information we provide.

Jennifer Nash: I will say, backing up a little bit, I'm relieved. This is strange to say, but I'm relieved that the amount of money that we're being looked at to cut is only 1.12 million. I know that's still a number, but it could be way worse.

Ken Sanchagrin: And I think we have some strategies that, I mean, anytime you cut funding, it's felt by someone somewhere, but I think that we have some strategies to do that in a way that could be minimally felt across the community.

Jennifer Nash: Natural vacancies are one of them, I suppose.

Ken Sanchagrin: Natural vacancies, yep. I think there are a number of spots that we can look at, but this is so new that I think that we will certainly be bringing that forward very soon.

Jennifer Nash: Well, and if the legislature uncouples us, the Oregon Legislature uncouples us from the federal tax, which seems very probable, I would say, that may be mitigated. All right. Any other questions or comments or anything for the good of the order? And it's only three minutes late. All right, and with that, we will adjourn. Thank you very much for your time, everyone, today.