

Chair Jennifer Nash: Good morning and welcome to the December 6th in-person meeting of the Oregon Public Defense Commission. I'm Jennifer Nash, the chair of the commission, and we have several commission members who are here in person and one commission member who is appearing virtually behind me so I can't see her very well, Commissioner Parrish Taylor. I've asked Commissioner Parrish Taylor to speak up whenever she wants to say something because I can't see that she's wanting to speak and she's going to do that.

Jessica Kampfe: Chair Nash, you also have Commissioner Reinhard.

Chair Jennifer Nash: Oh, there you are.

Brook Reinhard: Good morning.

Chair Jennifer Nash: Commissioner Reinhard, it's hard for me to see you but I definitely can't see you during the meeting because my back is to you, so if you have something that you'd like to say please just speak up at any time.

Brook Reinhard: Absolutely. Thank you, Chair.

Chair Jennifer Nash: All right, and we will first start with public comment, and we've had a number of requests for public comment both in person and in writing. There's been some difficulty providing public comment, I understand, and just for clarification purposes, I've received some messages that people are having a difficult time submitting public comment via the link. The link expires and is no longer accessible when the public comment period is closed. So, if you're having difficulty submitting public comment, that may be why, just information regarding that. And for people who are providing, I received written public comment from Suzanne Swift, a defense investigator, and request for verbal public comment from Rachel Philips, Sandy Chung, James Comstock, and Kevin Neely. Mr. Neely, my understanding is, will be virtual. The remainder will be in person.

Public comment will be limited to three minutes. I will be timing the public comment as I usually do, and my timer is set to 35 minutes, so let me fix that. A person speaking during the designated portion of the agenda for public comment may offer input regarding general matters of concern regarding the commission's statutory duties under ORS 151.216, its policies, procedures, standards, and guidelines regarding the provision of public defense and/or objective criticism of commission operation. The commission will not hear comments regarding any individual public defense provider, commission member, or employee of

the commission. If you have a complaint regarding a public defense provider, commission member, or employee of the commission, you may submit your complaint in writing to [opds.info@opds.state.org](mailto:opds.info@opds.state.org) to be addressed.

Public comment is a time for members of the public to express their views and is not a dialogue between the commission and commentators or the public. Commentators must not engage in abusive or harassing behavior including derogatory remarks, profanity, or personal attack, the use of obscene language or gestures, threatening comment, or sexual harassment. Public comment that deviates from these guidelines may be terminated at my sole discretion. Public comment is limited to three minutes and speakers may be muted or disconnected or asked to stop speaking once their public comment has ended. At the beginning of your public comment, please introduce yourself and identify whether you're speaking as an individual or on behalf of an agency or other entity. Rachel Philips.

Rachel Philips:

Rachel Philips and I am a criminal defense attorney. I've been practicing for 19 years. I started my first eight and a half years at Metropolitan Public Defenders, so I know very well the stresses and the difficulties of carrying a public defender's cases. And I'm here to talk to you very briefly and keep my remarks short about the unrepresented crisis. There was an article from January of 2022 by Conrad Wilson at OPB and in that article he cited there were 60 unrepresented people in the state of Oregon in December of 2021. We're in December of 2024 and the unrepresented number today is 5,340. So, we went from 60 unrepresented in 2021 to 5,340. We have been through four executive directors since 2020, and connected to the unrepresented crisis is high attorney turnover. There was recently a report about attorney turnover and one of the things that I noticed in that report on the high attorney turnover is there was nothing that said what the numbers were, how many men, how many women, how many people who identify as other. There's simply no numbers on that.

I want to point that out because I think that's important because if we're going to try to figure out why people are leaving, we need the whole picture. And in 2023, I actually addressed this commission with statistics on that I obtained from the Oregon State Bar on my own. I care deeply about public defense. I've been doing this for 19 years and this crisis and my outspokenness about this and other issues, I recently had to hire Patrick Sweeney who's been practicing for 30 years to help me settle a case because the male district attorney wasn't listening to me anymore. I worked that case up like I work up every case, did my

mitigation, did everything, and I knew the way that case should resolve, and the DA stopped listening. So, like a good defense attorney, I used all my tools and turned to one of my mentors, Patrick Sweeney, and got funds to hire him, and guess what? He was able to get that deal that I couldn't get.

I am concerned, am I going to have to keep doing this? Every time I know the way the case is supposed to settle, are the male DAs going to stop listening to me? There is a disconnect. The culture of this office, of this agency, it's been longstanding where we are trusted to represent individuals facing life in prison sometimes. I represent people on murder cases as well as sex cases. These are very complicated cases, and the law keeps changing and getting more and more difficult. So, the messaging, and this may not be intentional in this particular...

Chair Jennifer Nash: Thank you, Ms. Philips.

Rachel Philips: I'd just like to briefly finish.

Chair Jennifer Nash: I'm sorry. I need to strictly adhere to the timelines for everyone. Thank you for your time. Thank you. Sandy Chung.

Sandy Chung: Good morning, commissioners. My name is Sandy Chung. My pronouns are she and her. I'm the executive director of ACLU of Oregon and speaking on behalf of the ACLU of Oregon. We're a nonprofit nonpartisan organization dedicated to defending and advancing democracy, civil liberties, and civil rights with more than 30,000 members and donor supporters across Oregon. I started as executive director of ACLU of Oregon in February of 2021, almost four years ago. During that year, multiple women defense attorneys came to us with very serious concerns that OPDC general counsel had engaged in retaliatory actions towards them. The concerns they described are serious. Acts that have negatively impacted their work earnings, professional reputations, job opportunities, and even potentially barring licensure. We asked OPDC for an investigation that year in 2021. After years about asking about the status of the investigation and also for the investigation report, we finally received the report in August of 2024, three years after we initially asked for the investigation.

According to the report, the investigator that had been engaged by the state found that the general counsel had engaged in retaliatory actions towards several women defense attorneys. Then this fall, a woman attorney reported directly to the general counsel as an employee of OPDC, shared with us that she had also experienced retaliation from the

general counsel. She said she had also informed OPDC's HR department, but no appropriate action had been taken. I informed you about this in October of this year. As far as we know, OPDC's leadership has not addressed the findings about the general counsel's misconduct in any adequate, sufficient, or appropriate manner. Nor has OPDC leadership tried to address the harm experienced by these women attorneys by communicating and interacting directly with them and addressing the situation.

The ACLU of Oregon has deep gratitude for the defense attorneys and public defenders who protect the constitutional rights of defendants and protect the integrity of our criminal system. We know that criminal defense work is incredibly hard, but no matter how dedicated you are to this very important work, it does come at a cost to you. Public defenders and defense attorneys tell us that judges, prosecutors, and even clients can be disrespectful to them at times and that you bear the weight of our dysfunctional and oppressive systems of poverty, racism, substance abuse, childhood abuse and neglect, mental illness, inadequate resources, and supports for our marginalized communities, and more. It is because the ACLU of Oregon deeply values and respects public defenders and defense attorneys that we will continue to show up and speak up for these women attorneys who are treated with retaliation and disrespect. How OPDC treated these women attorneys with such disrespect and dismissiveness it is not right.

Chair Jennifer Nash:

Thank you. James Comstock.

James Comstock:

Good morning, Commissioner Nash, members of the commission. My name's James Comstock. I'm an independent defense investigator and a member of Defense Investigators of Oregon. I regret that I had to leave the OCDLA conference this morning to come and speak to you again on issues that I've addressed in the past. I've not given public comment at the last two meetings, maybe three. This is because providers were receiving deposits in their accounts 30 calendar days or less from the date of the invoice submission. We were heartened and hopeful at this development. We're now disappointed at increasingly longer payment times in this last month.

I'm here to reiterate, we exist in an economy that runs on 30-day payments. Bills are due in 30 days. The entire economy is based on 30-day payments. State employees are paid every 30 days. Every other state agency in Oregon pays their bills in less than 30 days. My colleagues and I are small business owners. We cannot recruit and retain investigators to public defense if the agency cannot consistently

pay bills in 30 days. Current payment times for my colleagues and for me personally this week have been over 40 days. We're aware that staff members are working nights and weekends to pay invoices. We appreciate that from line staff. That said, we don't think weekend and evening work should even be necessary.

We do not understand why the agency cannot pay its bills in accordance with common business practices. Something is amiss. We cannot wait for a new system that has been just around the corner for years to fix this problem. The agency must find a way to pay its bills in 30 days in the time between now and when a new system is in place. We want to enter this legislative session in a collaborative posture with the agency, asking for much needed pay increases for investigators. However, if the agency cannot fix this problem at once and maintain proper payment times, we'll be forced into an adversarial position where we lobby against the agency's budget, requesting a budget note that requires payment in 30 days or less. We no longer want to hear about the statutory 45 days. No other state agency uses this as a goal, and this agency and commission have told us that you are committed to working to pay us in 30 days. Please show us so that we're not here in front of the commission with this issue again.

Additionally, my colleagues and I strongly support the change in the PAA expiration time from six months to a year. We loudly advocated for this when the six-month expiration was proposed, and we were told to wait to see if it caused a problem. We knew that this would cause a problem, and while it pains us that we had to experience the inevitable, we're grateful to the committee members who advocated for this until the agency proposed it. I hope to only see you again on matters other than timely payment in the future, and I thank you for your service and your commitment to public defense.

Chair Jennifer Nash:

Thank you, Mr. Comstock. And I believe we have Kevin Neely for virtual comment.

Kevin Neely:

Chair Nash, members of the committee, thank you for the opportunity to testify today. My name is Kevin Neely, and I'm the executive director of the Oregon Criminal Justice Truth Project, a nonprofit founded by retired law enforcement professionals in 2024. Our first significant undertaking has been to focus on what is happening with Oregon's indigent defense system. Based on our review of the available data, we believe there should be no crisis. Oregon's system is one of the most well-funded in the nation. In 1999, the US Bureau of Justice Statistics ranked Oregon 8th out of 21 states with centrally funded indigent

defense at over \$9 a person. By 2012, Oregon climbed to second with spending of nearly \$29 per person. In 2009, the American Bar Association reviewed all 50 states. That report found Oregon to be fourth highest per capita, spending trailing only Alaska, Massachusetts, and Nevada.

Today, per LFO, Oregon spends over \$71 a person on indigent defense. We believe that is among the highest, if not the highest, in the nation. Our requests to the Sixth Amendment Commission for nationwide information have been denied, though they have stated the average is \$19 per capita. While funding has doubled, case counts have declined sharply. Between 2017 and 2020, the number of criminal cases filed in Oregon plunged by nearly 30%. The numbers don't add up. There's been nearly a quarter billion dollars of new investments in indigent defense, while case counts have sharply declined. Meanwhile, the number of unrepresented individuals skyrocketed from 750 in 2022 to a staggering 3,604 people today. Even with the implementation of the new maximum attorney caseload standards, this defies logic and should test the trust of this commission, policy makers, and the public.

As reflected in the meeting materials, this is fundamentally a six-county problem. Of these unrepresented individuals, 95% come from six counties. Those counties share one thing in common. They're all primarily served by nonprofit public defense offices. In the counties where the consortia are meeting at least 95% of the MAC, there appears to be no appreciable problem. Bluntly, it gives the appearance of a work slowdown, which should be deeply concerning to this commission, policy makers, and the public alike. Based on our current assessment, we endorse the recently stated views of the state court administrator's office. If the state received the MAC services it was paying for, there would not be an unrepresented person's crisis.

Before seeking funds to double the number of indigent defense attorneys over the next seven years, the current contract permits reductions and payments to those organizations that are underperforming. Those funds should be invested in offices willing and able to manage the work. Hopefully, the commission is considering such action in light of the unacceptable and ongoing number of unrepresented individuals. Oregon's public defenders deserve equitable pay and responsible caseloads. The accused deserve adequate representation. At the same time, victims are constitutionally guaranteed timely resolution of cases. The public deserves accountability and action. There are sufficient resources to achieve all of these outcomes. Thank you.

Chair Jennifer Nash: And that concludes our public comment period. Also, I just want to say, I don't know, Representative Evans, if you heard me earlier, but I can't see you because my back is to the screen. So, if you have anything that you'd like to say during the meeting, just speak up.

Paul Evans: Thank you.

Chair Jennifer Nash: You're welcome. All right. Oh, and Addie too. Addie, you heard me, I can't see you, so speak up. All right. So, moving on to the unrepresented person's update from Director Kampfe and Mr. Noone.

Jessica Kampfe: Thank you. Good morning, members of the commission. I'm Jessica Kampfe and I'm here supported by our research analyst, Harry Noone, who is the person who put this presentation together for you. We're going to talk about status of the unrepresented persons crisis in Oregon. Commissioner Mandiberg?

Vice Chair Susan Mandiberg: Would you speak up a little?

Jessica Kampfe: Yes. Thank you. Next slide. This is the slide you all are familiar with. This is showing sort of the trend lines for the unrepresented population in Oregon. We can see that the in-custody unrepresented population has stayed largely stable for quite some time, and the out-of-custody population is the one that has continued to rise. In recent months, we have seen a tapering of that increase in the out-of-custody population. We are looking at what may be causing that tapering, and it does align with the increase of hourly attorneys that are taking out-of-custody cases. So, we think that that might be part of the solution that's working to curb that increase in the out-of-custody population. Next.

This slide shows you the spending in the Temporary Hourly Increase Program by category. So, in this slide, we have the spending on investigator fees in orange, attorney fees which is the bulk of the money in light blue, and then all other fees in dark blue. We have been asked to reflect THIP cases in their totality for budgetary purposes, and so this slide does show you all of the expenses that are associated with each THIP case. Since its inception, we have provided representation through this program on over 7,000 cases for almost 5,000 clients. And so far, the money that we have spent, so these are checks that have been cut and out the door, is in excess of 43 million.

In June, the agency introduced an index form for the assignment of cases hourly. This is a form that is now regularly used by court staff on

unrepresented persons cases to get them on the hourly list. By introducing that form, we created some benefits to our own processing ability for these cases, and we are now able to streamline and appoint counsel more efficiently. We're also able to collect better data on the appointments for both the THIP cases, which are the in-custody unrepresented cases, and the non-THIP cases, which are the out-of-custody unrepresented cases. That coordination has allowed us to be more efficient with the assignment coordinators and their ability to do outreach on those out-of-custody cases. And so we are seeing that they're much closer in spending. You'll note that the THIP appointments were less in November than in October. We had a staff person who was out for nine days, and we are so thinly staffed that just having somebody out for nine days can make a big difference. So, we think that that's the reason why the November numbers are lower.

Rob Harris: I have a question. I think I asked this one other time, but is it possible to take all those program cases that were assigned and convert that into what the cost would be to the agency if they were all within a contract, if that makes sense?

Jessica Kampfe: Commissioner Harris, I believe that it would be possible because we know what all of the cases are, so we would need to look at all of the case types and then apply a MAC standard to those case types. I think it would be possible. I don't know how quickly we could turn that around, but I do think it's possible.

Rob Harris: It would just be interesting because if we could increase contract caseload by a certain amount, we could show what the cost will be compared to continuing the THIP program for the next 10 years or whatever.

Jessica Kampfe: I do think it would be an interesting data point. Some of the benefits of this program that we don't have in contracts is people are willing to go all over the state to take these cases. So, with our contracts, they're mostly regionally based, and that creates a bit less flexibility than the THIP program does, but I think we could do that analysis.

Rob Harris: Thank you.

Jessica Kampfe: Our assignment coordinators have prioritized the assignment of counsel for cases subject to the Betschart ruling. This is in-custody folks that would be released if there is no lawyer assigned within the first seven days. They have been very successful in assigning over 750 cases within those first seven days, getting people a lawyer within the first seven



days. This is a really big win for our agency to be able to so quickly facilitate the assignment of counsel for people who are in custody and unrepresented. We are displaying here where the cases are getting assigned, so you can see that of the 754, 92 of those cases were taken by contractors, 585 were taken hourly, so that's going to be through the THIP program, and then our Trial Division has served as a very important backstop, and they've taken 77 of the cases. We're also displaying the types of cases that are being taken off the Betschart list. I think people might be surprised to see so many misdemeanors and minor felonies, but that is because domestic violence crimes are part of our tier one status, so it's part of our priorities, and many of those cases are misdemeanors and minor felonies.

Brook Reinhard: Jessie, this is Brook. I'd raised my hand, but Chair Nash told me you guys can't see me behind you. Can I just ask a question?

Chair Jennifer Nash: Thank you. Yes.

Brook Reinhard: Okay. So, that chart's very helpful. What percentage of Betschart cases are not getting counsel assigned before the otherwise released date? I mean, I only see this when I take cases and I have unhappy clients who wish I didn't take them so they could get out, but it's always a trade-off.

Jessica Kampfe: Thank you, Brook. So, we have four tiers of prioritization, and we are successfully assigning cases to our tier one cases. When we can, we're also getting into the tier two cases. Tiers three and four are not getting assigned counsel prior to being released from custody, and we shared with this commission our memorandum on how we were ranking the priority. We've also shared that information with the district attorneys and with the courts so that we're being really transparent about our prioritization and welcomed input if people thought that we ought to shift that prioritization.

In terms of a percentage, I don't have an answer for you, and I don't know if Mr. Noone, if that's something that we would have available data on. It can be very tricky to track what is and what is not a Betschart release because of the way that that happens. It's not a court order. It's a sheriff's office decision, so it's not necessarily reflected in Odyssey or eCourt, and that makes it hard to get data on the who got released portion of it. Mr. Noone, did I get that right?

Harry Noone: Good morning, Director Kampfe. Yes, that's accurate to my knowledge. That data point from the sheriff's office for the specific reason of release is not available in Odyssey, so we're not able to report on that.

Jessica Kampfe: Is that all, Commissioner Reinhard? Did we sufficiently answer your question?

Brook Reinhard: That's perfect. Thank you very much.

Jessica Kampfe: Thank you. Next slide, please. So, I might actually have Mr. Noone walk you all through this, but we wanted to inform the commission and the public that the agency is now publishing on our website our criminal contract providers' utilization rates, and so when you look at, and I know nobody can see that on this slide, but if you were to go to the website and look at it, what you would see is for each jurisdiction, you can open it up and see each contracted entity within that jurisdiction. You can see their reported MAC, which is the caseload report information that they send us every month. Then you can see their prorated MAC, which is the number of full-time attorneys that they have for the percentage of the contract. And then if you divide the reported MAC by the prorated MAC, you get their percentage of utilization. That's the third column, so you can see what percentage of MAC utilization each provider has.

We are also sharing information about what case types they're taking, so misdemeanors, minor felonies, homicides, that type of information, so you can see where the caseload is. Along the bottom, we're starting to reflect more information that is relevant for a workload-type model, so we're showing the number of new appointments that public defense has taken in, the number of cases that they've closed. So the new appointments is in light blue, the closed cases is in purple, and then the current open caseload is in orange, so we're starting to reflect the information that's actually on people's desks. Mr. Noone, is there information on this slide that you'd like to walk us through?

Harry Noone: Good morning, members of the commission. I'm Harry Noone, I'm a research analyst, OPDC. We're going to have a walkthrough on December 18th that's going to be, I think, helpful in terms of navigating how to interact with the data presented here. There's different filters and slicers available, but generally the data is presented at the county level, and if you expand the county with the little plus sign next to it, you'll see the contract entities under that county, and I think you captured most of what I would have offered. There's also a page, a second page, showing the caseloads of the state attorneys, so the Trial Division attorneys, so there's two main pages there, and this is something kind of brand new that we've done. First time we've published data on our webpage, so it's an exciting opportunity for us,

and we're welcome to feedback. We've got some information on our title page there and our data team's email as well, so if you have questions or comments, suggestions, that type of thing, feel free to reach out to us.

Jessica Kampfe: Thank you, Mr. Noone. So, as Mr. Noone was saying, we do have a workshop to walk through this data on December 18th. That's something that the data team is going to lead. It's open to members of the public to come and walk through it with us. We'll be posting or reporting from that to our website if people want that information moving forward. And as Mr. Noone correctly said, we have a similar page for our Trial Division available on the website, so this just reflects the contractors, and then the second page reflects what's happening with our Trial Division. Last slide. I think that's it. Do commissioners have questions?

Floyd Prozanski: Do you have a time for the meeting on the 18th?

Jessica Kampfe: We do have a time for the meeting on the 18th, let me look it up. It's disconnected. I will get that time for you as soon as possible.

Vice Chair Susan Mandiberg: And will it be virtual or...?

Jessica Kampfe: It will be virtual. It will be recorded so people can view it afterwards. It will be reported and posted on our website. [Inaudible 00:31:38]. Oh. Thank you, Anna. It's at 10 o'clock in the morning.

Chair Jennifer Nash: And how do you get a meeting link? Is it going to be on the website?

Harry Noone: Director Kampfe, we are planning on sending out a communication on the meeting with details sometime next week, so that should hopefully clear lots of these things up.

Jessica Kampfe: Thank you, Mr. Noone. It's a little bit difficult to hear, so I'm just going to repeat that for folks, that we're planning on putting out a communication about how to join next week.

Chair Jennifer Nash: Thank you. Any other questions or comments? All right. Thank you very much. We will next move on to the next agenda item, which is the budget update. Mr. Amador, who is here in person.

Ralph Amador: Good morning, Chair Nash, Vice Chair Mandiberg, members of the commission, Director Kampfe – Ralph Amador, chief financial officer for

the commission. We're going to be looking at the budget recitation for the period ending October 31st, 2024.

Jessica Kampfe:

Ralph, will you speak up?

Ralph Amador:

Yes, I will. I will speak up very loudly. Thank you. Sorry. We're going to first start out with the Adult Criminal section. You'll see that it's showing a balance of \$8.4 million. We recently provided a contracting plan for the rest of the biennium that aims resources towards the 4002 [Inaudible 00:33:13] bill. Thus, we've added approximately 4.75 million for attorney capacity, case management capacity to the projections. This will leave about approximately \$8 million that should be available for hourly programs and early session rebalance.

Next, we have the Juvenile Division. You'll see that there's a slight overage that still remains. We're hoping to see if it resolves itself. If it doesn't, I will include this in the early session rebalance to actually cover that. The Parent Child Representation Program, this is performing as expected. We are recovering our IV-E funds to help offset some of the costs, 75% of those have been requested and approved as of this date. And if this continues to spend the way it should, we'll be able to move 500 of this to the hourly programs in December rebalance if it's approved. Next slide.

Here we go, preauthorized expenditures. This is projecting a \$14.5 million problem. The main drivers are increased psychological services, which will be moved to court mandated expenses where the budget is. We have an increase in expert services, increase in travel for all service providers. The agency is using a six-month rolling average to forecast so we can better account for the maturation of the policy changes that have happened over the last six months. It allows us to be more realistic. The December E-Board, if approved, should add approximately \$600,000 to this budget in the THIP extension request to cover those expenditures. Next slide.

These are court mandated expenses. This again is projecting a \$9.8 million problem as the agency is assigning more cases. Hourly and THIP attorney billings and travel expenses remain high due to the change in monthly billing processes and other policy changes. The December E-Board should add approximately \$6.5 million if all requests are approved, 4.7 would come from the rebalance of administrative costs savings, and 1.8 for the THIP extension if it's approved.

Pilot project, these are the state defender offices. Almost all these positions are filled. We have one attorney that's relocated to Southwest Oregon to help in that area. We hired an additional chief deputy defender to manage the southern offices because it was becoming too strenuous for our one chief deputy defender to travel the state. And if spending holds here, we should have about 1.8 million available for the early session rebalance aimed towards the hourly programs as well. The Appellate Division, this is performing as we expected it to perform, and all I can say with this one is there's about 500,000 that should be able to gear towards the rebalance in December.

The Compliance, Audit, and Performance Division, again, performing as expected, and really all you can say with this is there'll be money available to you towards the hourly programs. Most of this is from vacancy savings and stuff that didn't pan out. Next up is the Administrative and Executive divisions. There's about, again, 1.2 in savings that we'd be able to add over, 500,000 to the hourly programs, ASD, and about 300,000 from the Executive Division. This combines both of those administrative divisions together, it's performing as it should. FCMS, there's a significant savings in this program due to published delays, and it hasn't been moving as quickly as we'd like it to, but it's on track and we're going, but there's money there. So, we have about 2.4 million of unobligated dollars that we're going to be able to put forth for the hourly programs that will not affect the performance of it as soon as we get a contract going. Because our savings accumulate every month and we're not spending them on program stuff.

Lastly, Special Programs. Discovery continues to be the only issue with this program, [Inaudible 00:37:45] discovery, and we're going to pay those bills until the funding's exhausted. There's approximately 1.7 million left to pay discovery for the remainder of the biennial, and we're showing about a \$900,000 problem here if spending goes as the way it should. And our last slide is the agency as a whole. We're projecting an \$8 million problem here basically because the hourly programs are running over. Any questions?

Jessica Kampfe: Chair Nash, may I offer a little bit of additional information?

Chair Jennifer Nash: Are you going to talk about the E-Board?

Jessica Kampfe: I am.

Chair Jennifer Nash: Yes, that's what I was going to ask. Thank you.

Jessica Kampfe:

Thank you. So, we are headed to the E-Board during December Legislative Days. Vice Chair Mandiberg has graciously agreed to accompany me to the E-Board during Legislative Days. We've been working really closely with our Legislative Fiscal Officer to devise a plan because we do have problems in our court mandated expenses, pre-authorized expenses, and that's creating an agency-wide problem. Our initial plan that was presented to this commission and approved by the commissioners was to go to the E-Board for a rebalance now and to request access to a special purpose appropriation to help backfill some of that deficit.

In working with our legislative fiscal analysts, concerns were raised that we might not be fully capturing the extent of the problem right now. And that is because we are continuing to see growth and increased spending on hourly cases, both through the THIP program and that out-of-custody hourly appointments. And so, there was a concern that we're underestimating the scope of what this problem is going to look like, and that it doesn't make sense for us to go to the Legislature now and ask for a complete rebalance and the access to the SPA funding and then come back and ask for an early session bill to continue to fix the problem.

So, our legislative fiscal analyst is aware that this is what's happening in our budget, this is not a surprise, and the plan that we are working with right now is to do a partial rebalance during the Emergency Board meeting to make sure that we have enough funding to cover all of our expenses as we move into session. And then once we are a little bit further along and have, as Mr. Amador said, we've switched to a six-month rolling forecast as we continue to gather more information about the scope of the problem, to be working with our legislative fiscal analysts to define that problem and ask for money in an early session bill. So, we are aware of the problem, the Legislature is aware of the problem, and we are working closely together to remedy it, and the plan is to move forward with the request early in session.

Paul Evans:

Chair Nash?

Chair Jennifer Nash:

Yes.

Paul Evans:

Chair Nash, this is Representative Evans.

Chair Jennifer Nash:

Go ahead.

Paul Evans: Thank you. I want to say thank you to the director. I am aware of the coordination on the efforts for the E-Board. I do second LFO's concerns. It is generally better to try to budget for the forest fire season rather than one fire at a time, but I certainly understand that people are going to have differences on that. What I want to put a marker down on and be very clear about is that I am still disappointed that the Southwest pilot program was not prioritized at this point. In the long-term march towards stability, securing the public, the state employees for the Trial Division is a priority if we're ever going to get there. I understand prioritization has to happen, I understand that your plate is full, but for long-term stability purposes, I'm still disappointed that was not a priority at this time.

I also want to put a marker down that as we transition to the Executive Branch, there may be a review and likely a review of the workforce model for state employees. Part of the reason of having state employees is we have the ability to theoretically control their workload a little more. So, I just want to put those two things down. It's December, so it's not a surprise when you hear me say things next week, but I still believe that the regional offices in areas where we know that there are significant problems, that that is where a backbone of structure and foundation should be, and I wish we would have gotten to that this time. Thank you.

Chair Jennifer Nash: Thank you, Representative Adams. Director Kampfe, could you take the time to talk a little bit about what's happening right now and the change that's happened in the Southwest area? Just talk about why, for the E-Board, at least, that was pulled.

Paul Evans: Chair Nash, I actually, if she could do that, I am aware that they have found people to work the jobs for now. I'm just concerned about the piecemeal effort. Thank you.

Chair Jennifer Nash: I understand, and I know that you know that. I'm not sure other commissioners know, so I thought it would be a good idea to just talk about that so that everybody's on the same page about what's happening in Southwest Oregon. Thank you.

Jessica Kampfe: Thank you. The agency withdrew the request to open an office in Southwest Oregon with the Emergency Board. We did that after the contracted provider who is in that region had four vacancies. That provider was able to fill all four vacancies using the Supervised Practice Pathway Examination program, so they brought in four new lawyers to fill that contract. We also rotated one of our state employees who is a

major felony-qualified lawyer to Coos, and she is there on a one-year rotation, so she's able to take the more serious cases. The provider there has added four new lawyers to their contract, so they are able to take the lower-level cases. And so in the short term, we should be covering the need in Coos County, and then long term, we very much do want to pursue opening a state office in that area. It is an area that has historically been underserved and had significant retention problems, so it is someplace that we would like to go.

Chair Jennifer Nash: Is this a good time to talk about the Governor budget, or are you going to talk about that during your...

Jessica Kampfe: I was planning on talking about it during the director's report.

Chair Jennifer Nash: Okay, I know Mr. Amador wanted to have that discussion. Are you going to stay for the rest of the meeting?

Ralph Amador: I will be here.

Chair Jennifer Nash: All right, wonderful. All right. Anybody got other questions or comments, concerns? No. All right, thank you. Thank you, Mr. Amador. Thank you, Director Kampfe. Moving on to the next agenda item, which is the conditional extension of the THIP program. I believe it's an action item. So, Director Kampfe, can you discuss this item for us?

Jessica Kampfe: Thank you. You all should have received materials on this. Our temporary increased hourly rate program expires at the end of this month, so if the commission wishes to extend that program to the end of the biennium, you would need to vote today to do so. We are serving a great deal of people through this program. It has been a tool that has given a lot of flexibility in our ability to respond across the state to the in-custody unrepresented population, and it has been a significant tool that we've used on cases subject to the Betschart ruling and being able to identify counsel for those folks prior to a release occurring.

We do not currently have funding to extend the program, but we are going to the E-Board and asking that the program be authorized for extension, that the Legislature allow us to extend the program. So, what you have in front of you today would be a conditional vote because of the timing. You all will meet again after the December Emergency Board, but before the program expires. So, if the commission wishes to extend this program to the end of this biennium, we would ask that you do so conditionally upon the E-Board's approval.



Chair Jennifer Nash: Questions?

Peter Buckley: Do we know if Legislative Fiscal Office is going to recommend this proposal?

Jessica Kampfe: I believe that it is now posted to OLIS, the LFO analysis on the agency proposal and the recommendation is [Inaudible 00:48:10].

Vice Chair Susan Mandiberg: Case scenario, it does not get approved. What contingency plans are there?

Jessica Kampfe: If the Legislature does not approve the extension of THIP, then our temporary increased hourly rate program, we wouldn't have funding to continue it. And so, that would mean that our hourly cases would be taken at our standard hourly rate, which is 130 and 140, or 130 and 145 an hour. So, we would still have that hourly rate program available. And we would need to pivot a lot of our business processes and rely more heavily on our Trial Division and our contractors on Betschart cases. We are currently assigning some Betschart cases to Trial Division and to contractors, but we really need to be relying more heavily on those areas. But we would expect that it would be more difficult for us to get counsel for people within those first seven days, and that we would probably see an increase in releases of in-custody persons because they don't have people.

Vice Chair Susan Mandiberg: And this situation will be made clear to the E-Board?

Jessica Kampfe: Yes.

Chair Jennifer Nash: There's a recommendation that's been published to approve it, but by Legislative Fiscal Officer to approve this.

Vice Chair Susan Mandiberg: Do we have any idea how many fewer individual lawyers you would be likely to have? Is there any way to anticipate that?

Chair Jennifer Nash: Well, we know how many lawyers are taking THIP cases right now, and I believe it's about 254 lawyers that are taking THIP cases. Some of those lawyers have contracts with us. So, they're taking in excess of their contract under the THIP program. Now, that might be a part-time public defender who is selling us their private time to take THIP cases, or it could be somebody who's at 100% MAC and selling us their time in excess of the maximum attorney caseload standard. So, it's difficult to say for sure how people's behavior would change, how many of those

254 lawyers would continue to do hourly work at the [Inaudible 00:50:50]. I don't know. Thank you.

Rob Harris: Do you have a breakdown in the case types that are THIP? Like are they heavily weighted towards the more serious cases, or is it a pretty even mix? Is it a pretty well-rounded mix, what we have, anyway.

Jessica Kampfe: Thank you. I don't know the answer to your question off the top of my head, but I see that Mr. Noone is still with us, and perhaps he knows if we have a breakdown in the case types that we're assigning under THIP.

Harry Noone: Commissioner Harris, yes, the bulk of the work is under the misdemeanor and minor felony categories. So, I'm looking at my numbers and seeing almost 5,000 of the over 7,000 cases are misdemeanor or minor felony, if that helps. I can give you a more complete picture another time.

Chair Jennifer Nash: Could you narrow that time period for when we switch the THIP to just be for in-custody cases? Because I think by capturing those early cases where it applied to out-of-custody, it may weigh more for the misdemeanor category. So, if you could narrow that for, let's say, the last 12 months.

Harry Noone: Chair Nash, I could do that. I assume that the breakdown would be roughly similar. I'd prefer to have a little time to do that instead of giving you a number off the cuff. So, if I'm able to.

Chair Jennifer Nash: That would be great. Thank you. I think that would be very helpful to make sure that we're comparing apples to apples.

Jessica Kampfe: And Chair Nash, I think some of the drivers on the misdemeanor and minor felony is those tier one domestic violence cases that are in-custody are often misdemeanors and minor felonies. Additionally, if somebody has, say, a homicide case that's getting assigned under THIP and they [Inaudible 00:53:00] DUI, they're also going to get the DUI case. So, you might want to narrow it by most serious crime type for the individual.

Rob Harris: Because I think that's important information for people to have because if the THIP goes away, what are we at risk of? If we're at risk of losing lawyers for these cases, you're going to have more cases with Betschart, by the way. And how many of these are Betschart cases? And what is the impact if you lose a certain amount? And if it's heavily weighted

towards DVs, in-custodies, then clearly the risk is greater to discontinue THIP at this point.

Chair Jennifer Nash: Okay. Any other questions before we ask for a motion? All right. Do I have a motion to conditionally extend the THIP policy from January 1st, 2025, to June 30th, 2025, contingent upon the E-Board request for approval?

Alton Harvey, Jr.: So moved.

Chair Jennifer Nash: And a second?

Vice Chair Susan Mandiberg: Second.

Chair Jennifer Nash: Okay. Moved by Commissioner Harvey, seconded by Commissioner Mandiberg, and we need a vote.

Mara Hoaglin: Commissioner Nash?

Chair Jennifer Nash: Yes.

Mara Hoaglin: Commissioner Mandiberg?

Vice Chair Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Smith?

Addie Smith: Yes.

Mara Hoaglin: Commissioner Harvey?

Alton Harvey, Jr.: Yes.

Mara Hoaglin: Commissioner Parrish Taylor?

Jennifer Parrish Taylor: Yes.

Mara Hoaglin: Commissioner Buckley?

Peter Buckley: Yes.

Mara Hoaglin: Commissioner Selander?

Bob Selander: Yes.

Mara Hoaglin: And Commissioner Harris?

Rob Harris: Yes.

Mara Hoaglin: Thank you. And it's passed.

Chair Jennifer Nash: Thank you. All right. Moving on to the next action item, which are policy updates to our pre-authorized expense, schedule of guideline expense, and routine expenses.

Jessie Lenhardt: Good morning, Chair Nash, Vice Chair Mandiberg, and members of the commission. I am Amy Schabert, the pre-authorized and court-mandated expenses manager. Before the commission today are proposed changes to the pre-authorized and routine expenses policies, as well as the schedule of guideline amounts. Next slide, please. As you know, the agency has engaged stakeholders in a workgroup centered around payment times for accounts payable. In addition to discussing payment concerns, discussions regarding PAE-related issues also came up. Not surprisingly, the biggest hurdle that providers express they are facing centers around the 180-day expiration date. Many options surrounding this portion of the policy were discussed at the workgroup, including staggering authorization dates, or adjusting the number of hours initially approved. OPDC considered several of the options discussed at the workgroup. However, many of them would present other unexpected obstacles for both the providers and the agency.

Ultimately, the solution that we believe will work best for providers, while still accommodating the agency's budgetary needs, is to extend the 180-day expiration date to one year. We hope this will provide clarity for providers regarding expiration dates and allow a more reasonable time frame for the work to be completed and built. Mara, can you go to the next slide, please? Many people will be wondering what this means for a PAE authorization that was issued in 2024. If the policy changes are approved today, OPDC intends to treat any authorization issued in 2024 as though it has a one-year expiration date. Providers should look at their authorization, specifically the highlighted portion on the slide, and change 2024 to 2025. This will be the new expiration date. Additionally, the PAE team intends to update the form effective January 1st, 2025, so that a one-year expiration date is issued on the authorization form. Mara, can you go to the website, please?

Section 2 has changes as well. PAE now has its own page on the OPDC website, and if I may, I would just like to take a minute to show you a

few of the things. Our request forms are all in one spot now. We have the policies there, and we have added Frequently Asked Questions. Submitting a request, can you expand that, please? There's a slew of things in here about how to submit a request, when do you backdate, how do you request airfare, all kinds of things. The next one, can you go back, please? Yes. What to do after you've submitted a request. How do you amend it? How do you withdraw it? How do you ask for reconsideration of the denial? Next section.

Attorneys, there's a section for attorneys. There's a section for interpreters. That actually came out of the AP workgroup. One of the issues that was discussed there was that attorneys and interpreters would like a special spot that they could go just for interpretation. Next section, please. There's a section for providers. There's currently a section for expiration dates, which will also need to be updated should the commission approve the proposed changes today. And finally, there's an Other section. Can you expand the Other section, please? We've compiled all of the frequently asked questions in that bottom, "Is there a way I can save these FAQs to my computer?" You can print them. You can save them to your desktop. I would encourage you that if you do so, that you come back every so often to make sure that you have the most recent information. Okay, Mara, can you go back to slide two? Perfect. Thank you.

The rest of the changes to section two of the PAE policy center around the PDF fillable forms. The PAE team is currently working with IT to develop a single online form that will generate both the fast track and long forms and streamline the submission process. We hope this will help attorneys and staff by eliminating the issues with the PDF fillable forms. The remaining changes to the policy are outlined in the materials and are relatively straightforward. Those sections have been updated, moved, or edited for clarity and accuracy. The agency recommends the commission approve the proposed changes to the preauthorized expense policy effective January 1st, 2025, which will supersede any prior memo or policy.

Chair Jennifer Nash: Thank you. Are there any questions that anyone has regarding the proposed changes to the preauthorized expense policies?

Rob Harris: [Inaudible 01:00:48].

Chair Jennifer Nash: Yes.

Peter Buckley: I'm very happy to see the effort to make it so user-friendly, so much appreciated.

Chair Jennifer Nash: I agree. I have one trailing criminal case that I've had for two years. It's finally set for trial in March, super excited I get to have a jury trial again. But I had to recently request a change to a PAE that I obtained for an expert a year and a half ago, and I realized I didn't know what to do. And I read the policy and couldn't figure out what to do, and I finally emailed and got very helpful information. That was before the Frequently Asked Questions section was completely put together, and that would have been so helpful. I really, really appreciate all the work that you put into that, and all the work that you put into the policies, and the accepting feedback about changes that need to be made and being receptive to those. Just thank you very much for your work on this. Very, very much appreciated. All right. With that, is there a motion to approve the preauthorized expense policy changes?

Vice Chair Susan Mandiberg: So moved.

Chair Jennifer Nash: Commissioner Mandiberg moves. Is there a second?

Peter Buckley: Second.

Chair Jennifer Nash: Thank you, Commissioner Buckley seconds, and we need a vote.

Mara Hoaglin: Commissioner Nash?

Chair Jennifer Nash: Yes.

Mara Hoaglin: Commissioner Mandiberg?

Vice Chair Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Smith?

Addie Smith: Yeah.

Mara Hoaglin: Commissioner Harvey?

Alton Harvey, Jr.: Yes.

Mara Hoaglin: Commissioner Parrish Taylor?

Jennifer Parrish Taylor: Yes.

Mara Hoaglin: Commissioner Buckley?

Peter Buckley: Yes.

Mara Hoaglin: Commissioner Selander?

Bob Selander: Yes.

Mara Hoaglin: Commissioner Harris?

Rob Harris: Yes.

Mara Hoaglin: Thank you. That passes.

Chair Jennifer Nash: Wonderful, thank you. All right, moving on to the schedule of guideline amounts.

Jessie Lenhardt: Routine expenses, yes, there were just two changes to the routine expenses policy. One was to add exceptions to the minimum billing amount on hourly cases. It expands the options, opportunities for attorneys to invoice very similar to what they were under the 2019 policy, and those were it. The agency recommends the commission approve the proposed changes to the routine policy effective January 1, 2025, which will supersede any prior memo or policy.

Chair Jennifer Nash: Questions regarding the recommended changes to routine expenses? All right, I need a motion and a second.

Rob Harris: So moved.

Chair Jennifer Nash: Commissioner Harris makes a motion.

Vice Chair Susan Mandiberg: Second.

Chair Jennifer Nash: Commissioner Mandiberg seconds the motion, and we need a vote.

Mara Hoaglin: Commissioner Nash?

Chair Jennifer Nash: Yes.

Mara Hoaglin: Commissioner Mandiberg?

Vice Chair Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Smith?

Addie Smith: Yes.

Mara Hoaglin: Commissioner Harvey?

Alton Harvey, Jr.: Yes.

Mara Hoaglin: Commissioner Parrish Taylor?

Jennifer Parrish Taylor: Yes.

Mara Hoaglin: Commissioner Buckley?

Peter Buckley: Yes.

Mara Hoaglin: Commissioner Selander?

Bob Selander: Yes.

Mara Hoaglin: And Commissioner Harris?

Rob Harris: Yes.

Mara Hoaglin: Thank you. That passed.

Chair Jennifer Nash: Thank you. All right. Next, the schedule of guideline amounts.

Jessie Lenhardt: There were just three updates, mostly housekeeping issues to the schedule of guideline amounts. The agency recommends the commission approve the proposed changes to the SGA effective January 1, 2025, which will supersede any prior memo or policy.

Chair Jennifer Nash: And when you say add LCSW, you mean add social workers as a category?

Jessie Lenhardt: Correct. In the schedule of guideline amounts, we, for whatever reason, had not put in LCSWs, so they are now in there. We added language at the top that simply says that it is due to sunset December 31st, but obviously if that's extended, we will be able to change that again.

Chair Jennifer Nash: So, the plan would be to, if the E-Board approves the request, to just change the sunset date to June 30th, 2025?



Jessie Lenhardt: That is correct.

Chair Jennifer Nash: All right, thank you for that clarification. All right, are there any questions or concerns about the changes to the schedule of guideline amounts? All right, may I have a motion?

Peter Buckley: [01:05:50] I'd love to make a motion on this.

Chair Jennifer Nash: All right, [Laughter] Commissioner Buckley loves to make a motion. And a second?

Alton Harvey, Jr.: Second.

Chair Jennifer Nash: All right, Commissioner Harvey, and a vote.

Mara Hoaglin: Commissioner Nash?

Chair Jennifer Nash: Yes.

Mara Hoaglin: Commissioner Mandiberg?

Vice Chair Susan Mandiberg: Yes.

Mara Hoaglin: Commissioner Smith?

Addie Smith: Yes.

Mara Hoaglin: Commissioner Harvey?

Alton Harvey, Jr.: Yepper.

Mara Hoaglin: [Laughter] Commissioner Parrish Taylor?

Jennifer Parrish Taylor: Yes.

Mara Hoaglin: Commissioner Buckley?

Peter Buckley: Yes.

Mara Hoaglin: Commissioner Selander?

Bob Selander: Yes.

Mara Hoaglin: And Commissioner Harris?

Chair Jennifer Nash: He stepped out, so we'll just skip him. Oh. Well, he's not here. We won't need to wait. We have enough to still pass. All right. There he is. All right, motion passes. All right, wonderful. Let's move on to the next item, which is a potential action item or just discussion, we'll see how it goes, and that is to the OPDC Strategic Plan. Director Kampfe and Ms. Lenhardt.

Jessica Kampfe: Thank you. I'd like to have [Distortion 01:06:50] set this up and just let folks know that as we move to the Executive Branch, one of the expectations from the Governor is that we have a strategic plan. And so we've been working on developing our strategic plan, and we've been supported in that work by Moss Adams. We scheduled this today for a briefing and potential action item. We weren't sure if the commission was going to feel like you had enough opportunity to consider it to move it to an action item. So, we wanted to keep some flexibility in the way that we posted this, should you decide that you're ready to move forward. Otherwise, we can talk at the end about options. And with that, I will ask Ms. Lenhardt if she would walk us through the strategic plan work that we've been doing.

Jessie Lenhardt: Yes. Thank you so much, Director Kampfe. I'm Jessie Lenhardt. I'm a senior manager with Moss Adams and have been working with OPDC on a variety of organizational development projects since February. So, today we're talking about the strategic plan, as Director Kampfe said. We kicked off facilitating the process of developing the agency's inaugural strategic plan back in April, and so have gone through a series of engagement of staff, series of work sessions, and reviews. And so this phase of the project, we're at a point where we have a draft plan that was posted externally for public feedback. So, today I'm going to discuss the results, how the feedback from the public and the community was incorporated into the plan, and then pass it back to Director Kampfe to talk through some next steps. Let's go to the next slide.

So, the community or the public survey was posted to OPDC's website, and communication and notification went out through OPDC's mail list, and there was a posting also through social media. The survey was open between November 13th through the 22nd, and in that period, 96 anonymous responses were collected. Next slide. It's just a background of the folks who provided feedback and responses to the strategic plan. As you can see, the majority of individuals who responded have lived in Oregon over 20 years, but we did manage to have engagement from folks who have been living in Oregon for between 1 and 5. So, a little bit

of a spread, and then we had a couple of very interested parties who did not live in Oregon also contribute feedback to the survey, so that 2%. Quite a few folks in the Willamette Valley and Portland Metro Area responded. We were able to get a couple of other responses from folks in the Oregon Coast, Southern, Central, and Eastern parts of the state. That 2%, as you can see, matches up to those who do not live in Oregon and are there for Other. Next slide.

So, who responded of those? As you can also see, 48%, almost a majority of folks who responded were contracted attorneys, 30% fell within that Other category and were representative of investigators, experts, specialists, and folks who are part of public defense service delivery comprehensively. About 7% were employees, and then another 5% were just residents, interested and engaged community members. Next slide. So, when we open up and when we issue a public survey for feedback on a draft plan, we ask for input on each part of the plan's elements. First, we asked folks about their outlook on the agency's mission and vision. So, as you can see, the majority of folks who responded right there in the middle, 32%, neither positive nor negative. So, a lot of individuals just kind of waiting to see what happened. Sixty-two percent overall were extremely positive, somewhat positive, or fell within that neutral category. And then 40% felt either somewhat negative or extremely negative about the agency's mission and vision.

We're not surprised by these results. I think as you all have had a front row seat too, the provider community, the community residents of Oregon are mixed. And so you have a lot of engaged folks and so the spread here is not a surprise. We'll talk about some of the themes and feedback that we received in an open comment box in order to help kind of clarify and provide a little additional insight here. On the next slide, we asked about people's outlook on the agency's values. So, incorporated into the plan were just a set of values, and here you can see 32% feel somewhat positive, 11% extremely positive. And then again, just kind of a decent size of folks right there in the middle, neither positive nor negative. And then slightly less, but around the same percentage of folks who felt somewhat negative or extremely negative. So, results here slightly skewed to the positive, but still quite a few contingent or quite a few folks who are right in the middle, neither positive nor negative. Next.

Now this one is almost an even split. When we asked individuals to provide feedback on their outlook on the goals and direction of the agency, you can see almost an even dispersment between extremely negative, somewhat negative. Again, that neutral category, somewhat

positive, and a few folks who are extremely positive. So, here we see about 59% falling in that neither positive nor negative to somewhat to extremely positive. And again, not a surprise kind of based on what we have heard from and seen firsthand about how people are feeling about the agency and what it's doing, its ability to deliver on some really high priority issues. We're also seeing some response here relating to the unrepresented persons crisis, which we also heard about today, and a lot of these comments and what we'll go into on the next slide is just prioritization, what people are feeling is the most urgent.

So, we also asked, you know, a strategic plan, and this one is looking at building that roadmap over the next six years, as much as the agency often is asked and tries to do everything all at once with resources, and a lot of the really critical items that we have heard about recently and today, we want to make sure that we have a really good prioritization of what is going to be the most important to tackle first, what we really need to focus resources on, and balance with the rest of the elements outlined in the strategic plan.

So, first and foremost, reducing that public defender shortage. We see that really clearly is connected to the unrepresented persons crisis. And so making sure that there's real intentionality around addressing, reducing the shortage, and the impact that will have on the unrepresented persons crisis. And then also attorney workloads and thinking about that in order to really kind of build and strengthen and help improve provider relationships now and into the future. You can see an overwhelming majority, 60% of folks, are interested in seeing that addressed first and foremost. Next up, improving provider relationships, and then cultivating operational excellence, and then the transition to the Executive Branch rounding us out there at the end.

On the next slide, we'll go into some of the things that we heard about. We asked what, if anything else, would you like to contribute to the plan? And so 38% of those 96 respondents provided additional feedback, which as I'm sure you can imagine, ran the gamut between individuals who had extremely constructive feedback, and then individuals who just said, "Looks great." So, there were a few themes. And when we think about how we incorporate community feedback into a strategic planning draft, we think about a few things. Number one, what's the volume of responses that we get? And then number two, are there major themes that coalesce that are going to be really important to have clarified in the plan? And then which pieces of feedback are going to be important to really think about as the plan is executed and are important parts of communication?

I think one of the really critical functions of a strategic plan is that it can be used as an extremely useful communication tool to help frame the work that the agency is doing, progress that's being made, and then where issues might arise. So, we see three kind of main themes pop up. Number one, compensation. So, this was when, again, really thinking about the recent economic survey that was done, making sure that that takes place on a regular basis, and then just counting the dots pretty consistently. And again, no surprises between making sure that attorneys are fairly compensated, adequately compensated for their work, and that that's monitored on an ongoing basis.

The next one is about implementation. So, it's only two lines, but there's a large group of feedback here that was driving most of the "neither here nor there" feedback that we received on the plan's elements to the somewhat negative. There's just a hesitancy and a lack of belief that the agency will be able to achieve the work that is set out in the strategic plan. One of the things we really tried to be conscientious of through facilitating development of the plan is that the initiatives were actionable. And so there is one of those, again, over the next six years, using that plan as a communication tool to build the reliability, build consistency, build communication, build transparency in how progress is being made towards the plan, to hopefully move the needle about building confidence and belief that the agency will be able to do what it sets out to do. We understand, of course, that the agency works with a lot of partners and is dealing with things that are not often within the agency's sphere of influence or control. So, to the extent possible, really making sure that those considerations are outlined in the work moving forward.

And then the last one, again, no surprises here, really thinking about the attorney shortage, not just in the number, but also considerate of workloads, also considerate not just of attorneys, but of other public defense service delivery providers. Thinking about special investigators, private investigators, mental health individuals, paralegals, administrative support. Really thinking about building out the workforce of individuals who are engaged to provide public defense service delivery.

So, updates on the next slide. Like I said, we consider the volume of feedback and themes as to the updates that get incorporated into the plan. So, overall, when we look at the feedback that we got from the public, it skews mainly neutral to somewhat positive. I think there's a lot of hesitation, but I think when you look at the percentages, they mostly

trend in that direction. Again, still considering those folks who have a somewhat negative to extremely negative view of the plan. And again, thinking of just those 96 respondents as representative of that feedback. So, again, number two, reducing the public defender shortage. Of course, improving provider relationships are going to be key priorities. Based on feedback, we did update the plan. So, to address compensation, incorporate kind of the regular activity of doing an economic survey and updating hourly rates and compensation contract amounts as appropriate to make sure that it stays consistent and competitive with the market. And again, to support a lot of the initiatives around attorney recruitment is going on and kind of plan for the future.

We also intentionally outlined some initiatives to incrementally get folks to that 1,578 hours per year for full-time public defense attorneys. There's going to be work that needs to happen over time. Just don't have the workforce and the capacity right now to get folks to that place tomorrow, even though I think if we all could, we would. So, really intentionally outlined steps to get to that 1,578 full-time work year. And then again, this is a communication piece. And so just thinking about putting in place ways in which updates on the strategic plan and progress that is made and how work is being achieved, kind of consistent with the plan is communicated to the public at large.

So, with that, again, those proposed actions, really making sure that communication is consistent and connected with the plan. The next step, of course, would be to discuss the updates and kind of think about what approval looks like, either today or in January or in the future. And then work on developing an annual operating plan, again, to really clearly identify those priority items that need to take place in the first year, so it can intentionally build out resources, plans, schedules, and assignments, and are able to kind of execute all that work. So, with that, I'll pass it back to Director Kampfe to lead you through kind of next steps or discussion items. Thank you.

Rob Harris: I have a question, please. On the survey, was this a scientific survey? Did you weight it according to type of stakeholders or was this just self-selected? Can you tell me that?

Jessie Lenhardt: Yeah, I appreciate that question. It was not a statistically representative survey, and so we didn't do any weighting of the feedback. We just took it as it was.

Rob Harris: There was 96 or 98, was it?

Jessie Lenhardt: Ninety-six.

Rob Harris: Thank you. Yeah.

Rob Harris: Do you know the cross-section of people that did respond, however?

Jessie Lenhardt: We have some demographic information about location and type, but could look at other, was there specific information...

[Crosstalk 01:21:51]

Rob Harris: Provider time, whether their agency employed. I mean, just what their stake was as a stakeholder.

Jessie Lenhardt: Yeah. Yeah. That's another good question. On the list, we had contracted attorney and staff, so that could be used to kind of inform some of that. But beyond that, we didn't ask of contracted providers if they were a part of private bar or consortia or anything like that.

Rob Harris: Thank you.

Jessie Lenhardt: Yeah.

Jessica Kampfe: Thank you for that presentation. So, the commission has...

Male: A question is being asked.

Jessica Kampfe: Oh, [Inaudible 01:22:26]. Hi. I didn't see you. Commissioner Smith?

Addie Smith: Hi. So, is it okay to ask questions about the plan itself, or should we limit questions to the survey right now?

Jessica Kampfe: No, you can ask questions about the plan itself. We have scheduled time on the agenda for a commission discussion.

Addie Smith: Perfect. I'm wondering, while we have you here, can you talk a little bit about whether an equity lens was used in developing this? I'm really concerned that sort of there's one bullet point close to the very end of the plan that discusses the need for diversity, equity, and inclusion, but I'm not seeing it woven throughout the plan in a very thoughtful way. And we all know that the clients that we ultimately serve are a diverse population of Oregonians, and that when you have service providers and a system that is really focusing on diversity and equity and

inclusion, you can better serve those clients. And so I was hoping you could talk a little bit about how that was part of the planning process, part of the planning writing, and any feedback you received on that.

Jessie Lenhardt:

Yeah, I appreciate that question, Commissioner Smith. Thank you so much. Yes, it is included as kind of an item under Operational Excellence because the HR team is working on building out a more fulsome DEIB plan consistent with expectations of the state and kind of what has been mandated by all state agencies to develop. So, usually when we are developing a strategic plan, it's really easy to have it turn into a tome when we start to reference all of the other plans in place. And so it can... I hear loud and clear that it really seems and feels kind of insignificant to have it kind of embedded in that part, but that is because the agency is in the process of developing a more fulsome plan. So, we always like to say it once and say it in the right place in the goal of really kind of the agency's path forward when it comes to considering DEIV – diversity, equity, inclusion, and belonging – in its operations would be outlined more robustly in that plan. And so that's a connection point right there.

Addie Smith:

I would just say that while I appreciate that, having a separate plan for DEI and seeing it as something separate and distinct from the entire strategic plan itself is something I'm finding really problematic and hard to stomach a little bit because I think those things should really be interwoven together and it shouldn't be an afterthought or something in addition to. It should be the core work that is seen in the strategic plan, and it should be considered in each of the other elements, how it wraps in. So, for example, the first section is all about recruitment. I'm sort of shocked to see that there's nothing in all of the recruitment plans that's focusing on recruiting a workforce that looks like the population that we're serving. And I think if we walk section through section, there are examples like that that I think rise to the level of importance of belonging in the strategic plan itself and not in a separate DEI plan. So, I just want to put that out there, especially if we're going to talk about voting today. And I appreciate you answering my question.

Paul Evans:

Chair Nash, this is Representative Evans.

Chair Jennifer Nash:

Yes. Go ahead.

Paul Evans:

With respect, I have a slightly different view. I think that when public bodies spend a lot of time discussing not whether DEI is important or how to include it but making that the priority when we have a crisis going on, that that is one of the reasons we have a messaging



confusion. I would like a perfect plan, I would, but at this point, with what we have going on, I would settle for at this point, a workable plan. So, just a point, I know everybody wants to get the perfect plan here, and I know we're paying a consultant to develop a perfect plan. But I might suggest that because of conversations like this, it does make the public sometimes wonder whether we actually are in a crisis mode and trying to solve the immediate problem of having too many people right now that are currently without counsel. I just, I want to warn against the perfect being the enemy of the what we need to get accomplished. I will go back to being quiet and watch the continuing process.

Chair Jennifer Nash: Thank you.

Jennifer Parrish Taylor: Can I jump in real quick?

Chair Jennifer Nash: Sure.

Jennifer Parrish Taylor: I'd like to echo Commissioner Smith's comments. I think when we live in a state where Black and Brown people are overrepresented in our criminal justice system in comparison to their population, I mean, we consider it, and we, I mean Black folks in this state, consider our jails and prisons our largest Black community. And so I think it is imperative that we are thinking through how DEI is threaded through and actually called out in our strategic plan, seeing that that is the majority of our folks who are locked up and who will need these services. So, I think it's important that we have this conversation. I think it's even more important, given the administration that we're going to be walking into at the federal level, where it's going to be open season on folks. And so the more that we can make this a core tenet of our work and speak to folks having someone that looks like them to represent them, I think that's important. I don't think it leads to perfection or a perfect plan, but it's a basic component and should be considered.

Chair Jennifer Nash: Thank you.

Jasmine Wright: And we're talking about a strategic plan here that is not insignificant in its cost scope, and this strategic plan has already taken a significant amount of time. Is it really going to take that much more time for us to go back and take a look and to interweave into this a thoughtful DEI plan into that portion? When there's probably not a more important plan that we're talking about or that we've discussed as a commission than the strategic plan? I would argue that there's not. And to Commissioner Smith's point, if we haven't discussed how we're going to

integrate communities of color into our recruitment process and into how we do that.

I mean, I just had a discussion, I'm on the DEI committee for OCDLA, and there's one attorney of color essentially on that community because for the most part, most of our attorneys in Oregon are white, and so we have to deal with the fact that most of the attorneys in Oregon are Caucasian and most of those clients that they represent are not. And at some point, it's going to be important that we have attorneys that are representing clients that look somewhat like them, and we have to address that somehow more than just saying, "Oh, it's important, but we're not going to take any steps towards that." So, if we as a commission say that's important as a step that we believe is important, then we have to do something towards that other than making platitudes. And that has to be developed and seen in the strategic plan, or I would disagree with you a little bit, Jessica, in terms of what the numbers say.

The numbers actually say that in a lot of what the public says is that they're more negative than they are positive, or at least they're more neutral. A lot of those numbers say that they're 60% to the negative and 40%, I'm sorry, 60% to the negative and 40% to the positive. So, I mean, I think the public is looking at us and looking at the agency at best with a neutral tone. They're certainly not looking at us with a positive tone, but we've got to take some action here. And if DEI is important, if the Legislature and the public have said that this is a priority to us, then it has to be reflected within the context of this plan. And if it takes a little bit longer for us to do that, for us to do it right, and if the Legislature has a problem with the fact, and the public has a problem with the fact that it takes a little longer, then I would say let's make that case. I'm willing as a commission to make that case.

Chair Jennifer Nash:

Thank you. Commissioner Mandiberg?

Vice Chair Susan Mandiberg:

I agree with everyone's comments that it is important for our agency and our plan and our actual actions to move toward reflecting the racial makeup of who is involved in the criminal justice system. I also am sympathetic with the concern of triggering a knee-jerk response to our mentioning that in the plan. And I'm wondering if the kind of knee-jerk negative response is a response to the words rather than to the content of what we're trying to do. So, I think that the term DEI is one that turns a lot of people off because people attribute different meanings and different dynamics and different concerns to that term DEI. So, what I

would like to see is the content of why we care about this incorporated into every part of the plan where it matters without using buzzwords.

And even though that may mean the sentence is a little bit longer or maybe it'll take two sentences, I think that what we need to do is make the content of our concern and the content of our goals quite obvious. Not only to the public but also to us, so that we are assured that we are all on the same page, which we can't be if we're using an acronym. [Laughter] You all know I hate acronyms. But here I think it's important to actually say what we mean and why we're doing it. I think part of the negative reaction to this kind of thing on the part of the broader public these days is not only the term itself, but the concern that some people have with using the right words. Right? Labels change really fast. Maybe if you're 25, which I'm not anymore, obviously, you can keep track of the changes in labels. I have trouble doing that. So, again, explaining in real terms what it is we're trying to do is something I would support. I would not support just throwing the term DEI into every possible part of this [Inaudible 01:34:25].

Addie Smith:

No, and I don't think that's doing the actual work. When I'm talking about using an equity lens, I want to see how it's operationalized throughout. So, I think in that way, Vice Chair, you and I are saying the same thing, as it shouldn't be a nod that is its own bullet at the end. It should be, what are we actually doing under each of these to ensure that it's being prioritized in a real way? So, I couldn't agree with that more. I would just add to Rep. Evans' point, the other thing that's a little concerning to me about this plan is that it doesn't include any or very much of the plan that we put together for the Governor about how we are trying to currently triage the unrepresented crisis. And although a strategic plan should be a long-term plan, of course, with long-term goals, I think we look fairly unresponsive by not including that as one of the key first bullet points.

Because part of a good strategic plan, of course, is you want to check the boxes and work your way through, and the thing that should be top of mind for all of us is exactly what we heard testimony on earlier and exactly what Rep. Evans just said, which is we have folks right now who are unrepresented. And having a plan that doesn't have one bullet point being "ensure everyone has an attorney" I think is problematic in terms of how we are, sort of like the vice chair was just describing, communicating to the public, as well as to our providers, as well as to the Legislature, as well as to the Governor's office that we're moving into, that we are taking this seriously. So, I think both of those things I

found a little bit concerning when I spent some time with this plan, obviously for really different reasons.

I know it's important to get things done in a timely manner, and I love a deadline, for those of you who've worked with me, you know that. But I want to make sure that we're getting it right, and I think there's a way to do it where we don't fall into a trap of letting the perfect be the enemy of the good, but we still hold ourselves to important standards and to being sort of the stewards that we're meant to be when it comes to the resources used to craft this plan, but also to provide services to some of Oregon's most vulnerable citizens.

Chair Jennifer Nash:

Thank you for your comments, everyone. I had some thoughts, really 10,000-foot view thoughts and then smaller. When we were interviewed in April individually about our thoughts about the strategic planning and what our goals were, one of the things that I talked about or just asked some questions about, given that I was new to the chair position and new to this type of leadership position was, as the chair, what could I be doing to be an effective chair of this commission? And the thing that stuck with me in relation to the strategic planning process was feedback that I needed to use the strategic plan as the guiding star and to try to ensure that the discussions that we had and the actions that we were taking and the direction that the commission moved forward always adhered to the strategic plan, and that you could use the strategic plan as a, "Does this fall within the strategic plan or does this not fall within the strategic plan?" to kind of help shepherd us through this process that's going to be very difficult in the next few years.

And so, in the development of this strategic plan and reviewing it, that's really what I was thinking, how can the commission use this strategic plan in our everyday decision making and policy decision making to ensure that we're adhering to our goals, our mission, our plan? And to that end, I do think that it is a major fault or error – sorry, not fault – error, not to include some information about the biggest crisis that we are facing, which is the underrepresented persons crisis. And I have heard a lot of feedback, as I know other people have within, well, Director Kampfe specifically and other people as well, from mostly legislative people, but other people, that our six-year plan was tone deaf because we're spending all this time doing long-term planning and not addressing the short-term crisis. I will put my commentary aside about that, but I do think that we run a significant risk of having that same sort of feedback, negative feedback, if we don't include addressing the crisis in our strategic plan.

Because this is supposed to be a six-year plan and it's going to take us a long time to work through the underrepresented persons crisis. So, that should be part of our strategic plan, should be incorporated certainly in the workforce development piece, that is what the core of it is. But I think we do need to have a nod in there and absolutely agree about the equity lens. And there is a lot of information in the strategic plan about that that's spelled out in words rather than labels. But I think that weaving that throughout and maybe to put a finer point on it is important. And so, that's what I'm hearing from the commission generally if I'm understanding the feedback, is that we've got to include more language and more intention about recruiting, retention, representing our clients with more people that look like our clients and have similar experience, lived experience to our clients, or experiences that can more effectively represent those clients in some ways. And that we've got to talk about the unrepresented persons crisis in this. Director Kampfe.

Jessica Kampfe:

Thank you, Chair Nash. I just wanted to offer some information for the commission as you have this conversation. In August of this year, we submitted our 2025-27 Affirmative Action Plan to the Executive Branch. That's part of our standard budgeting process. We always submit our Affirmative Action Plan. In our correspondence with the Department of Administrative Services, we've let them know that our agency is currently working to meet our diversity, equity, and inclusion plan to identify strategies to incorporate diversity, equity, and inclusion into all aspects of our program and services so that we can better serve persons who are eligible for public defender. So, that is work that is ongoing within the agency, and I just wanted the commission to know that it's not something that we are turning a blind eye to internally. It is work that we are doing. And I hear you all saying that you want that work specifically articulated in the strategic plan.

Chair Jennifer Nash:

Yeah. I mean yes, that's right. And thank you for that information. I think the thing about the strategic plan is that its primary or secondary goal, or at least equal to the vision, is also communicating that vision. And so incorporating that information in the strategic plan is not just for us, but also for people who are reading it, to know that we don't want to say, well, look at the operational plan or look at the plan that we submitted as part of our transition to the Executive Branch. We really should incorporate that information into our strategic plan so that it's clear that the commission values that.

- Jessica Kampfe: So, in terms of next steps, the commission has a few options available. One, we can treat this as a briefing, and we can come back and update you all with changes to the strategic plan for your consideration. Another option is that the commission could vote on this plan today or the commission could conditionally vote on this plan, saying, "We would approve it, but we need you to do the following things." So, those are sort of the three options that you have in front of you. Treat this as a briefing and we can come back with changes to the plan, vote, or do a conditional vote. If you were to treat it as a briefing and have us come back, what I am hearing, and I just want to be really clear on it so that we've got good direction, is that the commission is seeking to have diversity, equity, inclusion, and belonging more specifically articulated throughout the plan. And while the plan talks about reducing the public defender shortage, which truly is the resolution of the unrepresented persons crisis, that the commission would like to see sort of the short-term and medium-term and long-term implementation pieces more specifically called out.
- Chair Jennifer Nash: I don't know about the last part. I mean, I think that we have to weave the thread through. I mean, we have to say there is a crisis. We have an idea of how to end the crisis, this is the core of ending the crisis. I'm not sure we have to leave the operational piece or the short- or medium-, long-term goal throughout, but I'm interested in what other people have to say about it.
- Male: [Inaudible 01:44:27] resolving the crisis by increasing the number of public defenders.
- Chair Jennifer Nash: I mean, I think that's...
- Rob Harris: I think that you could call out some tools that we would look at. I do think just acknowledging the crisis is not enough. I think you have to come up with... And I'm not saying you have to a plan in place, but to fully utilize the resources that we currently have until we can get more lawyers [Inaudible 01:44:59] or something, and we'll look at every possible ethical resource available. But I do think people in the Legislature and other stakeholders, I hate using that word stakeholders, but other folks that have interest in this process want to be assured that we are looking at every possible way to end the crisis. I'm not telling you what you should write in there or anything, but I think more than just lip service saying, "We understand there's a crisis, we're working hard, building the goals to get more lawyers, we sure hope to do it in the next six years," probably not going to satisfy very few people.

- Jasmine Wright: I think at a minimum acknowledging sort of what the current status of our fire is. And then kind of connecting the dot between where we are right now and what the strategic plan seeks to implement, right? I think that's what we have to do, and I think that's what the Governor's office is expecting. But I think just having the six-year plan, which is the end goal, and not acknowledging where we are and not drawing the line between the two is a failure in the plan.
- Vice Chair Susan Mandiberg: Say something like maximize the number of new attorneys per year given available resources. I think it's important to mention in there that we depend on what resources are made available to us, both by the law schools, by the Legislature, by the bar. We can't magically create lawyers.
- Jasmine Wright: I still can't vote on this though.
- Vice Chair Susan Mandiberg: Yeah, acknowledge that it's a partnership that includes other parts of the system and that we will maximize our use of those resources, but the resources have to be there.
- Jasmine Wright: Because in my mind, there's a significant amount of work to be done here, although I won't be voting. I would suggest that we treat this as a briefing.
- Chair Jennifer Nash: That was going to be my next question to people. I think what I'm hearing overall is that we would prefer to treat this as a briefing, come back, and at a later meeting in January if the work's done before January, but at a later meeting, vote on it. Are there other people on video who have thought about that?
- Addie Smith: I think it just needs to be reflected, and I think there's good ways that strategic plans can incorporate other plans – affirmative action plans, DEI plans, the Governor's plan that we wrote – and I don't think the first two are enough, just to be clear – and I think making sure those are making it into the strategic plan in ways, including the Governor's. Where we're giving a nod, we're making it the most important thing, we're showing people, we're hearing the level of crisis it feels to them. I think that is important, and all the ways I'm hearing it possibly incorporated seem fine to me, but I'd like to see them. Sorry to not be more helpful. And I'm happy to work with Moss Adams or anyone else on either or both of these puzzle pieces, or I'm happy to sort of stay out of the way and provide feedback after. But I definitely don't want to sort of say, "Go do all of this on your own and best of luck," so just know that I'm happy to work on this too.

Chair Jennifer Nash: Thank you. All right, so direction in terms of how we're going to move forward, I think we're hearing a consensus to treat this as a briefing, come back, bring it back before the commission at a later date. And the nature of these things is to give feedback that's negative, and I want you to know we very much appreciate the work that you've done, and this is a wonderful plan with some refinements that need to be made. So please don't interpret our, "Oh, this needs to be changed, that needs to be changed," as not acknowledging the good work that you've done. Thank you and thank you for all the work you've done for the commission throughout the year. We very, very much appreciate it. And thank you for continuing that. I know you don't live in Oregon, so thank you for showing up all the time.

Jessie Lenhardt: My parents do. They're delighted every time I come down. We may see them at one of these meetings.

[Laughter]

Chair Jennifer Nash: Thank you.

Rob Harris: What's the timeline? When does this plan have to be provided to the Governor's office?

Jessica Kampfe: It is the Governor's expectation that we have a strategic plan. The timeline is not specific.

Male: [Inaudible 01:49:20]. [Laughter]

Jessica Kampfe: The last time the agency did a strategic plan, I want to say it was 2016? 2018?

Chair Jennifer Nash: Long time.

Jessica Kampfe: It was quite a while, '16.

Chair Jennifer Nash: Yeah.

Jessica Kampfe: 2016, I believe it was a five-year plan, so we do not have a current strategic plan at this moment.

Chair Jennifer Nash: Well, we will see. Thank you. All right, thank you very much. All right, we're a bit behind, but I sort of expected that. Let me take a quick little look at our... The one thing that we're kind of bound by is just our 12:10



local court briefing from Presiding Judge Johnson, but other than that, we can be a bit flexible. So, we are scheduled for a break now at 10:50, so let's do that, take a break, I'm sure we need that, and then we'll come back and pick up on the Executive Branch and workforce transition. So, a 10-minute break, we'll be back at 11:00.

[No dialogue]

Chair Jennifer Nash: All right, that's true. Thank you very much for returning after our break. [Laughter] Appreciate it. I could have lost a quorum there, but I think we're all right.

Male: Yeah, we are.

Chair Jennifer Nash: Okay, moving on next to Director Kampfe's Executive Branch and Workforce Transition Briefing, if you're ready for that.

Jessica Kampfe: I'm ready. I have a glass of water here, I'm ready to go. So, this is our last commission meeting in the Judicial Branch. When we get together in January, we will be in the Executive Branch. The agency has been doing a ton of work to prepare for that transition, and we thought we might cover some of the highlights about sort of changes with you all. So, the areas we're looking at touching on during this presentation are upcoming changes for the commission and executive director, changes to legislative advocacy, our administration, our information technologies, procurement services, human resources, and finance. So, basically all that. Next slide, please.

So, for the commission and the executive director, once we make the transition, new commissioners will be appointed by the Governor. Our existing commissioners do not need to be reappointed unless your term is expiring. You'll continue your service, but new commissioners will be appointed by the Governor. They'll still be nominated by all three branches of governance, but the Governor will be the appointed body. For the next couple years, the commissioners serve at the pleasure of the Governor, which means that she has the ability to remove commissioners. For the next couple of years, the executive director serves at the pleasure of the Governor, meaning that she has the ability to remove the executive director. Additionally, once we move to the Executive Branch, the Oregon Public Defense Commission must publicly notice our commission meetings at the Executive Branch website, in addition to noticing them on our own website. The good news on that last piece is that since Mara joined our team three months ago, we have

already been doing that. So, that's something that is in existence already.

We are unique in our Executive Branch status in that the commission can advocate for or against legislation, policies, or budgets. So, most Executive Branch agencies are expected to leave that to the Governor's direction. This commission has maintained its independence and its ability to advocate for or against legislation, policy, or budgets. When we are developing our budget, we will now be subject to the Executive Branch timelines and processes for budget development, and we are going to be included in the Governor's requested budget. And in fact, we are included in the Governor's requested budget for this next biennium. Next slide, please.

There are expectations from the Governor around the administrative component of the agency. So, the first one is that we have to develop an agency strategic plan, and you all just had a good discussion about that today, and we hope to bring back a revised version soon. We have to develop administrative rules. So, our agency doesn't have administrative rules right now. We have to develop them. You are going to hear later in our presentation from Jennifer Bell. She has many years of Executive Branch experience and is spearheading our administrative rules part of the work. We will have to conduct an Agency Director 360 Performance Review during the next year.

We will have to develop an agency emergency preparedness plan. This is something that we have not started yet, and it is a really big deal. So, that is around how we would safely deliver core services in the event of natural disaster or some big disruption. The development of the agency emergency preparedness plan is going to need to involve the coordination with law enforcement, district attorneys, the courts. So, it's going to be a very big undertaking. We need to work with the Department of Administrative Services to develop our public defense forecast and workload forecast. That's something we already started doing. We did that in preparation for developing our current service level budget for this biennium, and I believe that we have seen the most recent forecast came out in October this year. And that we need to develop an internal audit plan.

Currently, our information technologies is supported by the Judicial Branch, and we are moving to the Executive Branch. This is a big piece of the transition for us. Our plan is to adopt a hybrid approach. So, we'll be using our own resources and expertise and also relying on services offered by Enterprise Information Services, or EIS, and the Department

of Administrative Services Information Technology Unit, which is DAS IT. We provided the Governor with more information about exactly what that breakdown would look like in a recent correspondence with her office.

One big piece that I think is important for our providers and vendors to know is that we are working to purchase an off-the-shelf financial and case management system, and that would replace the Oregon Judicial Department-supported billing system. So, currently, our billing is done on Nintex forms. The Nintex forms are part of what OJD supports us on. And so the plan is that as we transition off of the Nintex forms, we'll be moving people on to the financial case management system. We have a contract with OJD to continue to support IT through the end of this biennium. So, even though we are transitioning to the Executive Branch next month, we can continue to contract, receive those services from OJD until the end of the biennium. Next slide.

Procurement services. So, we've always been subject to procurement law, but now we will also be subject to DAS procurement rules. And so we have been using OregonBuys since 2023, and we're going to continue to use it. And one big change is going to be that for our public defense legal services, the Oregon Public Defense Commission has to do a couple things. First, for when we're doing those legal services contracts, we have to have our contracts go through a Department of Justice legal sufficiency review process. Then once that piece is complete, we need to work with the Department of Administrative Services to fit into a special procurement and then issue a special procurement. So, we are currently working with the Department of Justice. They are advising us not only on the legal sufficiency review, but also advising us on the special procurement process. So, we're getting good legal advice and support on that.

One thing that I want to flag for folks is that OPDC is not going to be able to issue new contracts once we move to the Executive Branch in January until we complete that process of legal sufficiency review and special procurement. So, we can modify and amend our existing contracts, but if John Smith moves to Oregon from Arizona and wants to directly contract with us to provide public defense services, we cannot extend a new contract to him to do that until we go through this process. John Smith could join an existing contract. So, he could join a law firm as an employee of that law firm. He could also join a consortia and we could amend those contracts because that's from the subcontracting process, but we couldn't have a new person directly contract with us until we finish this piece.

Floyd Prozanski: Jessica, what's the estimated time for that work to be completed so you will be able to do new contracts?

Jessica Kampfe: Thank you for the question, Senator Prozanski. I would expect probably the end of this biennium because we are working on the legal sufficiency review piece right now with the Department of Justice, and it'll be several months.

Floyd Prozanski: [Inaudible 02:11:21] by June 30th, 2025?

Jessica Kampfe: Yeah.

Floyd Prozanski: But still, that's six months, seven months. Or six months, beginning in January is the start time, which is over. Has there been any discussion as to some flexibility? Because if we're trying to deal with a crisis, it seems like this isn't helping [Inaudible 02:11:43].

Jessica Kampfe: Well, we have some flexibility in that we can amend existing contracts. So, if somebody wants to...

Floyd Prozanski: Come in.

Jessica Kampfe: ...come in and work as a subcontractor in a consortia, so our contract is with the consortia, we could amend that to add or subtract lawyers as they have new people coming in. Similarly, if they want to join a law firm, we could add or subtract new lawyers from that law firm. What we can't do is if they want to come and just contract with us directly, we're going to have a limitation there. That is a smaller percentage of our workforce.

Floyd Prozanski: Right. So, the other follow-up then, if you have a need, a regional need, you don't have a consortium in that area, can you amend that consortium contract in another part of the state to allow that individual, John Smith, to practice in a different geographic area?

Jessica Kampfe: That's a really interesting question. I don't know that we have approached it that way. We can certainly look into whether or not a consortium from one part of the state can support a lawyer that's practicing in a different region under their contract.

Floyd Prozanski: Just looking for ways to get these bodies in.

Jessica Kampfe: Yeah.

Floyd Prozanski: Thank you.

Jessica Kampfe: The other piece that we can do is people can do hourly work, yeah.

Floyd Prozanski: Okay. That's [Inaudible 02:13:08].

Chair Jennifer Nash: And this directly affects contracting because our contracts expire June 30, 2025, so we're going to have to – we've already flagged this – but we're going to have to early in 2025 extend the contracts. Right?

Jessica Kampfe: The commission will have to take up whether or not to do an extension of existing contracts. That's more directly related to the timeline with our overall budget. You won't know the sort of final results on the agency's budget until the Legislature finishes its work in June of 2025, and then our contracts expire like two weeks later. So, the timing on that is really problematic for us to communicate with providers and procure all of those new contracts. And so what we did last biennium was extended existing contracts until the first quarter of the next biennium. That is something that we can and probably should pursue this time around as well. But that has less to do with this procurement restriction and more to do with the timing on when we'll know what exactly we can put in those new contracts. Okay. Next slide please.

So, when we moved to the Executive Branch, part of what Senate Bill 337 did was it kept an exemption from Oregon Revised Statute 240 for our human resources department. So, a lot of human resources law that applies to the Executive Branch does not apply to OPDC. That being said, much of that law is best practice. And so what we are intending to do is adopt the Executive Branch practices where they apply to us and then not adopt it where they don't apply. We have a fairly complex grid that shows all of the different rules and whether we are adopting them, not adopting them, modifying our existing policies to comply. So, this is work that our human resources department is doing. And we think that because it's been something that's been ongoing with our human resources department as they are preparing for the transition, that we're going to have pretty minimal impacts on our existing employees.

So, this is our financial plan. So, things that will be expectations, to review and update relevant accounting policies and processes, this is something that we do anyway and conduct monthly meetings with the chief financial officer. We need to align our policies and processes with the Department of Administrative Services, update relevant budget process and policies, participate in the CFO budget building timelines

and requirements. We talked about that earlier, that our next budget cycle is going to be directed by the Executive Branch timelines and requirements. And create Governor request budget updates to our agency requested budget. So, you all approved the agency requested budget in August and we turned back in. The next thing that happens is that the Governor's office reviews agency requested budgets, looks at the overall landscape for the financial landscape for Oregon, develops the Governor's requested budget. And now we will need to work to update our agency requested budget with the information from the Governor's requested budget.

And now Executive Branch Order 17-09 is going to apply to us, and that is something that can have impact on our providers. So, what this is is an order that says that invoices collecting existing funds from any of our providers or vendors who have active garnishments with the Department of Revenue. So, we have not been required to actively collect garnishments previously, and now we're going to be. So, if any of our vendors have garnishments with the Department of Revenue, we are going to have to withhold that money until the garnishment is gone. Vendors can contact the Department of Revenue, set up a payment plan with them, and they should do that and get ahead of this. But any individual who has a contract with us, who we're issuing payments to, if they have a garnishment, we are now going to have to withhold that funding.

Alton Harvey, Jr.:

So, Director Kampfe, you said vendors, by vendors, you just explained what a vendor is, right? Anybody we're contracting with, or what else did you say?

Chair Jennifer Nash:

Contracted or hourly, I guess those are really the two ways that we put money out the door. So, if an organization has a contract with us, like a consortia that is an organization, the organization itself is not going to have a garnishment, and so there shouldn't be any disruption there. But if we have like a direct contract with an individual and that individual has a garnishment, that's where we're going to have to withhold. Or if we have a psychiatrist that we're paying funds to, and that individual, they're not part of a business, they're just an individual and they have a garnishment, then we would have to withhold those funds. So, people should get ahead of it and contact the Department of Revenue, set up a payment plan to address the garnishment so that we don't have to withhold the money. And that's it.

Vice Chair Susan Mandiberg: Will our vendors and providers be advised of this change so that they can take proactive steps to set up a payment plan so that it just doesn't hit them suddenly?

Chair Jennifer Nash: Thank you for the question. We, to the extent that we know about existing garnishments, we've already done individual outreach to the impacted folks, which isn't very many. And then I believe that our accounts payable team is working on a communication around this. Oh. I see Mr. Amador coming up.

Vice Chair Susan Mandiberg: There should be no reason why people just can't be told in a neutral blanket statement that this is coming and that they can decide themselves whether they need to do something about it.

Ralph Amador: Director Kampfe, commissioners, people are notified by the Department of Revenue there's a garnishment. And so I would say that they should know, I'm not saying everybody does know because they get a letter in the mail from them, their employer. There's a lot of correspondence that goes out when the garnishment comes out. And just to be clear that we are not withholding payment. The system at DAS that issues payments, but they stop on the payment and does not let it go through. So, it's not us. It's DAS and it includes all vendors. So, just to make it clear, investigators, everybody that could get a check from us. Again, like the Director said, organizations and such, but like firms won't get it, but an individual gets that. [Inaudible 02:21:27] that we have discussed this in our [Inaudible 02:21:28] workgroups, our monthly [Inaudible 02:21:32] workgroup, we put this out there. And I think it's on our website as well.

Vice Chair Susan Mandiberg: I'm just saying that given that we need to have friendly relations with our vendors and providers, even if they are told by DAS that there is a garnishment, even for people who have not been told by DAS that there's a garnishment, I think it would be a friendly gesture on our part to let all of our vendors and providers know that starting in January, if there's a garnishment, DAS will be withholding payment for their services to us. And that way, we can't be accused of not letting people know that this is happening. It would be a very simple thing for us to do that would probably be seen as a friendly gesture, so why not do it?

Ralph Amador: I'm sure, Vice Chair, the very incident, I believe that we did talk about a Mailchimp going out to everybody. I'm not sure if it went out or not, or if we actually sent it out or not.

Vice Chair Susan Mandiberg: Well, let's send it out.

Ralph Amador: Oh, yes, ma'am.

Chair Jennifer Nash: It can go in the recap from the commission meeting.

Vice Chair Susan Mandiberg: Yeah.

Chair Jennifer Nash: Yeah.

Ralph Amador: Thank you.

Chair Jennifer Nash: Thank you. Thank you, Mr. Amador. All right. Moving on next to Vice Chair Mandiberg, regarding a discussion about our bylaw amendments that we need to have.

Vice Chair Susan Mandiberg: So, the Governance Subcommittee has started a list of potential places where we need to amend our bylaws. Some of these things existing on the list that I have are based on our now almost one year of experience. We did these bylaws in January before we had any experience. So, now we may need to [Inaudible 02:23:34] them, and some of them are going to be based on what needs to be in our bylaws, given the transition to the Executive Branch. I had what was, I thought, an excellent training the other day on public meetings laws, and a lot of what I learned was eye opening. I think everybody on the commission should sign up for that training as soon as possible because it affects the way we interact with each other, and I'm happy to send out the link to the email with that, yeah, to the agency where that can happen. But I think that some changes to the bylaws may be prudent in light of that new information.

So, this is an invitation to anybody on the commission, who also has ideas about how the bylaws should be amended, to please get those suggestions tomorrow as soon as you possibly can. And then starting in January, the Governance Subcommittee will start working on putting something together. So, appreciate getting those as soon as possible, and everything will be [Inaudible 02:24:58]. That's all I have.

Chair Jennifer Nash: Thank you.

Vice Chair Susan Mandiberg: Yeah.

Chair Jennifer Nash: I'll send my list, but I just want to put it out there now that I do think that we need to change our bylaws to deal with some issues that we're having around public comment, and to make it very consistent and very



clear so that anyone can read them and understand exactly what the goals are, including us. But, I'll send my list.

Vice Chair Susan Mandiberg: Great.

Chair Jennifer Nash: All right. Thank you. All right, moving on to the operations briefing by Deputy Director Perfecto.

Emese Perfecto: I'm on mute. Hello. Good morning. Chair Nash, Director Kampfe, and commission members. I'm Emese Perfecto, and my report is going to dovetail real nicely into the director's transition report. Those are the main initiatives that we're doing as an agency. I wanted to bring forward this report to talk about all of the work that the agency has to do in order to do these big transitional pieces that we're doing and some of the more detailed work of the agency. Can we go on to the next slide? Thank you.

So, when we're looking ahead to the next six years, the agency will continue to manage major initiatives to address historical deficiencies, comply with legislative mandates, and improve the provision of the public defense services. So, I'm hoping that this report will be something that I can provide annually to show you how we're moving those things along, and really the growth of the agency and what's happening internally in operations is something that we frequently don't share what it takes to move some of these initiatives. And so I think it would be helpful, for the commission especially, as the agency is really moving in a new direction, and we have all of these things going on that you have clarity as to how we have to set up internally and the work that we have to do.

So, when you looked at your report, I had my direct reports and some of the operations teams come in and just list all of the work that they're doing. Well, not all of the work. The majority, like the high-level stuff. There are so many things that seem very small, like simple processes, passive escalation for information, how things get to executive team, and then move on to the commission, all of those things, templates, getting consistency in how we communicate externally, all of those processes, so that you guys can kind of see what's been happening in the agency in the last year that I've been here. So, can I have the next slide?

So, I want to briefly go over a little history, so we can see what has happened in the growth. Sometimes we don't talk about that. Since 2019, the agency's operating budget has increased by 60%. The agency's

FT has grown by 74%. The number of contracted attorneys has grown by 35%. And we now have three regional offices providing public defense across the state. Next slide. So, here's by the numbers so you have a larger view. So, our operating budget is 614.2 million, and I think for those that looked at the packet, I think in 2019 or 2020, it was at 342 million. So, we've increased quite a bit. We have 172 employees. We have 90,578 projected annual number of cases. And we are currently contracted with 689 contracted attorneys outside of the agency. That's a lot of people to handle. Okay. Next slide.

So, if we look back to the major highlights of the last year, in the first quarter, we had our new commission, which all the internal things that we had to do for that is start putting together your packets. I know that you guys all love your iPads and your emails and all those things internally. So, that was quite a lift for the agency to take on. The agency formally changed its name. We have the regional trial offices. For those that have not worked in the state, to actually set up three offices, like we have to do the work with DAS to get the buildings, we have to hire the staff, just the hiring alone. We have one recruiter for the entire agency, she has spent probably 90% of her time trying to get these individuals onboarded and get them in the different offices. So, we had, back in this time last year, we just opened our first office. And that is a huge accomplishment for the agency to start taking those cases and opening those offices simultaneously.

Then in the second quarter, the commission adopted the National Public Defense Workload Standards along with annual case hours standards of 1,578 hours. We have our Central Valley office opened, which is the one there by our administrative office. That required moving the agency and doing an actual build-out and getting people out of our offices and moved across the hall in order to have that office ready. So, we have the completion of the Hourly Rates Economic Survey was also a huge lift. We have our inaugural case forecast released by the Office of Economic Analysis. Then in the third quarter, we had our hourly appointment process was updated and implemented to streamline the system for hourly appointments and improve the agency's response to the unrepresented crisis. I mean, that was an IT solution. We reached out to our friends in the courts to help us look at what that process should look like and what would make it faster. We pulled several teams together, and you guys heard about it. I know that we presented here at the commission. So, also it took some time to get that up and going.

Let's see, launch of the Service Delivery Transition to implement an appointed counsel program by June 2027. The adoption of the revitalized, sorry, of the CAP program framework that happened last quarter. And then we're looking at adoption of the six-year plan to reduce the public defenders deficiency, release of the Request for Proposal for the Financial Case Management System to modernize the agency data and information management. I mean, also at this time last year, we did not have project managers, I think our CIO was on the way out. So, we did not have a CIO in place until I think the end of April, who then turned around and we hired the project managers somewhere April, May, I think was the timeline. We had those folks come in, revisit the FCMS system, take a look at all of the work that had been done, go through it. And we now have that procurement posted, and we're in the process of doing that, and we're currently on time with the FCMS project. So, that was a huge lift and a huge deliverable by our CIO to get folks in place, get them hired. So, we moved that very quickly for a state agency. And I know that there's a long history about that, but I can only speak to the things that I've seen since I've been here. Let's see.

And then we have the strategic plan, which I think you heard Director Kampfe say we haven't had one since 2016. So, that was also a lot of effort on the agency's part and pulling all the folks together to try and get that moving forward. So, we're not quite there yet, but we will be here, hopefully by next month. Can we look at the next slide? So, again, in the future, we're looking at more offices across the state, that we have to find locations for, work with DAS. And we have the Financial Case Management System that we're looking at currently, as far as getting that set up and all of the work that that's going to take and getting the right folks in place, the service delivery. And then, of course, you heard about the move to Executive Branch and all of the pieces that go into place there.

For example, you heard about the DEI plan, we have to have a language access plan, and we are getting the right staffing to do the work. If you look at your packet, you see the work that HR is doing. Some of the positions and the work that we need done, we don't even have a classification for from before. So, we're having to get new classifications, new positions and go through that process with DAS. So, there's a lot of process pieces that we will be working on and hopefully, getting the staff transitioned into these new processes and how we do things for the agency. Next slide. I think that's the last one. Thank you. Does anybody have any questions? No?

Chair Jennifer Nash: Thank you, Deputy Director. We appreciate your presentation. It's always nice to see, well, where we are and where we have to go, where we've been and where we have to go, but also the operations piece, which we don't really see because we're kind of big picture folks. So, we really appreciate it. Thank you.

Emese Perfecto: Thank you.

Chair Jennifer Nash: All right. Next item on the agenda is a briefing on the Oregon Administrative Rule process.

Kim Freeman: So, good morning Chair Nash, Vice Chair Mandiberg, commission members, and Director Kampfe. I'm Kim Freeman. I am the CAP manager and CAP is Compliance, Audit, and Performance. And today you're going to hear from two newer employees to the policy team here at OPDC. First, you're going to hear from Jennifer Bell, who will be speaking about our public records and giving you a briefing on that. Jennifer's been with the agency about four months. She's not new to state government. She comes from the Department of Human Services with over 20 years' experience in administrative rules, records retention, and public records requests. And with that, I'm going to turn it over to Jennifer. Thank you.

Jennifer Bell: Good morning Chair Nash, Vice Chair Mandiberg, Director Kampfe, and members of the commission. For the record, my name is Jennifer Bell, and I'm the rules and records retention coordinator for the agency. Today we're just going to go kind of high level over what the Oregon Administrative Rules requirements are and what this is going to look like for the commission and the agency in the coming months. Mara, can we have the next slide please? So, at a high level, Oregon law defines a rule as the agency directive, standard, regulation, or statement of general applicability that interprets, implements, or prescribes law or policy. So, in summary, it's really the codification of language between the federal and state laws and how the agency's going to interpret those and apply those, which is done in policy.

So, the rules are detailed, the requirements around them are in the Oregon Revised Statute Chapter 183. The important pieces to know is that rules are a different layer of guidance for the agency. So, all rules must be vetted through the Department of Justice. They'll be submitted for legislative review, posted for public comment, presented to a Rules Advisory Committee, which is known as a RAC, and then approved and filed by the Secretary of State prior to actually going live. So, typically rules are really to support eligibility, whether someone has appeal rights

for something, or whether they can request a hearing. So, the rules give us more of a structure in those sorts of business decisions. Can we have the next slide, Mara?

So, this is just a visual to really understand where administrative rules fall kind of in the guidance structure. So, federal law and guidance followed by Oregon Revised Statutes, so ORSs, and then the Administrative Rules, OARs, followed by policy, and then agency processes and procedures. The difference primarily between administrative rules and statutes is that administrative rules can be modified or changed outside of the legislative process. So, we can be more nimble and responsive to, whether it's economic changes, current trends in the work, we can make those changes to administrative rules a little bit easier. Next slide, please, Mara.

So, I've been with the agency about four months. And in that time, we have determined our delegation of rulemaking authority, which is on file with the Secretary of State. We've been assigned a chapter. So, when you go to the Secretary of State's rules website, every agency, board, commission has a chapter. Ours is 404 that's been assigned and set aside for us. We've prepared an outline structure and filed that with the Secretary of State, and that's really going to align with our ORBITS model. For example, the CAP, the Compliance, Audit, and Performance Division is section 200 in our ORBITS structure. So, all of the rules and policies that relate to CAP will follow that same numbering structure, and that'll trickle down to policies and processes internally.

We have developed an interested party sign-up that's ready to post online. And so what that looks like is people who are interested in providing public comment, receiving emails and updates to proposed rule changes, there'll be the opportunity to do that. Our DOJ contacts have been identified, so we have those in place and are ready to go. And then the schedule for what the 2025 OAR filing and work would look like has been completed. Next slide please, Mara. So, this is just a high-level timeline. Rules are typically effective quarterly with implementation dates of January, April, July, and October. So, the first OPDC rules, the plan implementation date for that is July 1st. So, working back where this timeline was created, as you can see in January, it's the creation of a Rules Advisory Committee. We're going to talk a little bit about that and what that's going to look like. And then each month, what the outreach will be, where there'll be opportunities for public comment, and where the presentations will happen, and postings will happen for the rules.

There is an allowance for temporary or emergency rules. And so if necessary, that is something that's built into the statute. However, those do receive a little extra scrutiny. We have to provide special reports to the Legislature on any rule filings. And that's just to ensure that agencies are not doing things or kind of circumnavigating this process for public comment to get things filed unless they truly are an emergency. Next slide please, Mara. So, the next steps over the coming months are going to be that OPDC is going to be working to create our own Rules Advisory Committee. So, this is the group that will review proposed OARs. So, look at those rules, potential rule impacts, talk about prioritization for how we want to roll the rules out. We know this is not all going to happen in July. We'll start with a few kind of key rules and then build from there. And we'll be working on an application process for individuals who are interested in participating in the RAC, and we'll get that out through our communications team to key parties and make sure we get that out so we can have those interested parties let us know that, yes, they'd like to be considered.

We'll be delivering training both internally and externally around rule processes and development. So, once we have the RAC identified, we'll be setting up a process for those who are not familiar with the rulemaking process. And we also have some key stakeholders within the agency that are going to be participating in that training as well. And then we'll be identifying priority rules for that July 1st, 2025, filing and then moving forward identifying when particular rules will go into effect. The last thing here, and it's not on the slide, we just found out the Secretary of State, who really oversees all of the administrative rules, is working on a statewide repository for all public comments, rule drafts, and final versions, so that agencies won't have to have their own sections and won't have to have their own place to post those on their websites. We expect that to happen sometime during 2025, but in the interim, every agency will have a place posted on their own website where rule drafts are available. Any questions?

Chair Jennifer Nash:

Do other people have questions? I have questions, but I'll let other people go first.

Vice Chair Susan Mandiberg:

I'm just wondering where the commission fits into this process.

Jennifer Bell:

Vice Chair Mandiberg, that's a great question, thank you. I think really the opportunity for the commission is we may have someone who wants to participate in the RAC. The commission may decide that they have someone who has that particular skill set or interest and so there'll be that opportunity. And I think going forward, rules will be posted and

anyone who has an interest and maybe not on the RAC will certainly have an opportunity to provide public comment as well.

Vice Chair Susan Mandiberg: So, in other words, the proposed rules will not be brought before the commission at a commission hearing for us to ask questions and give input. Is that correct?

Jennifer Bell: Vice Chair Mandiberg, I don't know that that's been decided yet. I think that's part of this conversation around how we want to message that and how we want to do that. I think that there's certainly benefit to that. It's just a matter of how quickly we want rules to go out and how many we'll be pushing out at a time, but I certainly think if we have a standing item on the agenda, if that's something the commission is interested in, we can certainly look into that.

Vice Chair Susan Mandiberg: I am not very happy with that answer. I think that the commission needs to be more directly involved in the development of these rules. I am not sure at what stage of the process I think that has to happen because this is the first time where stages have been presented to us. But I would hate to have a situation where the commission has some serious disagreements with the rules that the RAC is about to propose for final approval. I think that the potential tension between the agency and the commission that would develop from that scenario is something it would be very prudent to avoid.

Chair Jennifer Nash: Yeah, I don't think we want the commission making public comment about rules that the staff has developed, or the RAC has developed that the commissioners don't agree with. But, Senator Prozanski?

Floyd Prozanski: Yeah, just from my experience, there's many times legislation is passed. It goes to the agency to do the administrative rules to implement it, and what has been passed recently, the intent that most of us had, seems to not be recognized in the rules.

Chair Jennifer Nash: [Laughter] No. That never happens.

Floyd Prozanski: We are a body that we hear from the public and they are potentially going to be questioning the rules that are being implemented. It would be vital for us to have some opportunity to have input that the agency would then take in consideration before they go final.

Vice Chair Susan Mandiberg: Yes.

Floyd Prozanski: Not that they're going to agree or go with what we're saying, but if we don't do that, then we're going to have the executive director fielding stuff from us that's then going to come back to us a month later, just because of the time, work, and all that. So, it would seem to be much more prudent and efficient for us to be engaged prior to [Inaudible 02:47:36] final.

Vice Chair Susan Mandiberg: Exactly.

Chair Jennifer Nash: Yeah, agreed. And I'm a little concerned about... Hold on a second, go ahead.

Peter Buckley: I was going to comment. I really echo what Senator Prozanski's saying. I've experienced [Inaudible 02:47:48] program in ODE, it moves to the opposite of the bill we passed. We needed to go back the next session and actually pass the bill and say, "No, we actually meant this to move on." But I'm a little bit of two minds. I serve on the Early Learning Council, and Early Learning Council has to approve every rule. And this takes a lot of time, it takes a lot of the council's time. And sometimes the rules are complicated, but they're best handled at the staff level because of the lack of knowledge of the council members, like I'm sure the secretary is. The other part of that though, is there have been instances where the agency has adopted a rule, and the council's supported it, has had huge impacts on the field. And it is the responsibility of the Learning Council to take that obligation that we [Inaudible 02:48:41]. So, I'm a little bit of two minds. I'm wondering if there's a process can be set up where we can review rules and know what rules are in process, and the ones that we have flags on that we could basically [Inaudible 02:48:55].

Chair Jennifer Nash: That sounds like a really good opportunity for a subcommittee. I'm serious. I mean, because it's difficult, I think, in the big commission meetings to be flexible in that regard, and it might make sense to have a subcommittee that's a rule subcommittee of the commission, people who are interested in doing that. Also, I'm wondering about the timeline, how strict the July for final rules is. That seems really aggressive. I can't believe I'm saying six months is aggressive, but thinking about just commission meeting schedule is what I was really thinking. But I'm wondering, is there any flexibility given how many... Let me back up. I'm sorry. I've had too much coffee. So, given the number of steps that we have to go through from DOJ, the Secretary of State, the Rules Committee, that's what I meant about aggressiveness. The large bureaucracy that's involved with developing rules, six months



seems very aggressive. So, I'm wondering how firm that timeline is, if you know that.

Kim Freeman:

So, Chair Nash, this is Kim Freeman. Our hope is that the first rules that would be filed in July would be agency definitions, as an example. Right? So, we're working on a document now through the whole team on everyone understanding and agreeing what agency definitions of words that we use on a regular basis. So, our goal is to start very small, and I mean that in the best way possible, right? We know there's going to be many rules that we are going to need to go through the process, make sure we have stakeholder engagement, we've got commission input, staff input. We want to start with some very small key rules that we know that will set us up for success as we continue to move into some more technical rules, maybe around some programmatic programs within the agency, whether it be some of our standards.

Many of the things that we are working on, the rules we know will be very impactful and we have to take our time. So, I agree it is aggressive, but our goal is to start small. And I hope that helps, but we'll definitely... I've written down all of your comments. I know they're in the minutes as well. So, we can take that back and then formulate how we move that through the commission through the best way possible, right? So, we'll work with Director Kampfe and figure out the best way possible to continue to move it forward in the manner that makes sense.

Chair Jennifer Nash:

Thank you. That's very helpful with that clarification. And the other thing, I mean, the lawyers on the commission probably understand this too, and people who have governmental experience to a large extent, but just generally, can you talk about what kinds of things will be addressed by the administrative rules? So the broader public has an understanding of that.

Kim Freeman:

Yeah. So, we'll have definitions. As an example, we'll have acronyms. In my previous experience at other agencies, you have rules around programs. So, it helps you define whether it's eligibility requirements around a program. We could put in rule around how we qualify a person eligible for public defense. We do have a statute that says we have to come up with that process and policy. We could also put that into a rule to help solidify our process and policy. Gosh, I'm trying to think through all the things. There may be some things around our budget process or other programmatic things that we could address in the future. It will be things to help us become stronger as an agency, supporting our policies and processes through rules as well.

Chair Jennifer Nash: So, things like payment policies, would those remain policies, or would you expect those to become rules?

Kim Freeman: I would assume they would still stay policy.

Chair Jennifer Nash: And what about qualification standards, things like that? Would those be policies or rules?

Kim Freeman: They potentially could be both, and I think those are areas that we have to honestly have more conversation around.

Chair Jennifer Nash: And who's going to be the decision makers about whether those become policies or rules?

Kim Freeman: I think that is something that we still need to work out through the executive team and then ultimately back to the commission for approval.

Chair Jennifer Nash: Does anybody else have any questions?

Kim Freeman: I see Deputy Director Perfecto joined. I don't know if she wanted to chime in, so.

Emese Perfecto: Yes, I wanted just to clarify. So, we're following the process that all agencies have as far as the RAC and all of those opportunities for input. So, this is just standard for every agency, how we're doing this. I think the piece that we need to be clear about is any major initiative, I mean, whether it's a legislative action that's going to impact the agency and how we do business, all of that will have gone through the commission and will be discussed in the commission. Any major policy that we're going to make a decision on needing a rule, all of that will rise to the executive team as well as come before the commission. So, none of this should be a surprise.

What I think Jennifer was talking about is there's some basic fundamental things like the definitions and clearing up our acronyms and those types of things that I don't know that the commission wants to go line item by line item, and so I think that there's an opportunity with either the Governance Committee to go, "These are the rules that we're going to implement this time around. Are there any that you guys have not heard about or feel that we should discuss further?" And then we could then peel that off and bring it to the commission or have a further conversation, whichever way the commission would want. But most of it, most of the things that they will be dealing with, like the

high-level stuff that is impactful, like hugely impactful to how we do business, you guys will have heard till you just don't want to hear about it anymore because it'll all be big pieces that you guys have already been part of. So, there won't be any decisions that are made in a closet or just by ourselves – we just made this decision that impacts everything that happens with public defense. That's just not how that goes.

The other piece is that's what the RAC is for. So, we could, instead of having another subcommittee, you have somebody assigned to the RAC that then can go, "Wait a second, this is huge. And we would want this, this, and this to happen." And so there's some opportunities there. But we can, I think, add the Governance Committee, and just go, "These are all the rules we're going to be passing this month," something to move it along. Because as you talked about, there's a bureaucracy around this, and if we have to wait until we have the commission conversation and bring every little piece to you guys, one, you're going to be bored to death, but two, it'll really slow us down in getting the stuff moving. So, that would just be my recommendation.

Chair Jennifer Nash:

Thank you. That's helpful, and that makes sense to just have that clarified for us. Any other questions or comments? All right. Thank you. Moving on to our next item, which is a briefing on Public Service Loan Forgiveness.

Kim Freeman:

So, Chair Nash, Vice Chair, commission members, Director Kampfe – Kim Freeman, the CAP manager, and I'd like to introduce Heather Kessinger, who is our senior policy analyst who's joined the agency about eight months ago. So, you can see that I have two new people, but grateful that they have chosen to join the OPDC team. Heather brings a wealth of experience from Oregon Housing, working on several policy initiatives around federal programs on mortgage payment relief and ensuring that homeowners stay within their homes. She has joined this team and has done an amazing job of organizing our policy team, setting up trackers, and then worked hand-in-hand on this particular policy. And as we worked through it, we want to come back since the policy was approved by the commission a few months ago, share some updates and share all the tools that we've developed for our providers to be able to use and to have the benefit of Public Service Loan Forgiveness. And with that, I'm going to turn it over to Heather. Thank you.

Heather Kessinger:

Hello, Chair Nash, Vice Chair Mandiberg, Director Kampfe, all members of the commission. I'm Heather Kessinger, the senior policy analyst, and here today to brief you on the Public Service Loan Forgiveness.