

Chair Jennifer Nash: Good morning and welcome to the September 18th, 2024, meeting of the Oregon Public Defense Commission. I'm Jennifer Nash, the chair of the commission. And we have a number of matters on our agenda today, including discussing updates regarding the budget, accounts payable, the unrepresented persons, and the key performance measures and various other things. We also have two action items. One will be regarding our policy updates that we undertake quarterly, and then an action item regarding adopting a policy that relates to federal public student loan forgiveness.

With that, we'll start with public comment. We have a number of people who have requested public comment, and the number of people who've requested public comment exceed the allotted time for public comment. So, I anticipate we will not be able to hear public comment from everyone who has requested it. I will be limiting public comment because of the number of people that have requested it to two minutes per person, and I will be firm on that, and your time will start when I indicate that your time will start, and it will end two minutes later. I'm only going to call people one time and if they're not available, then I'm not going to circle back around because of the number of people that we have scheduled for public comment this morning.

Floyd Prozanski: Madam Chair?

Chair Jennifer Nash: Yes.

Floyd Prozanski: Commissioner Prozanski, I'm assuming that those who are not going to be able to participate in public comment will have the ability to do written comments?

Chair Jennifer Nash: Yes, that's right. And I'm about to read a whole little... Well, essentially the same exact information that I provided last meeting before public comment that includes how to provide written comment. So, yes, we will and want to hear from people who are not able to provide oral public comment. We have already received written public comment from Rachel Philips and Olcott Thompson that has been disseminated to the commission.

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 operations. 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.us](mailto:opds.info@opds.state.org.us) 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 the commentators or the public.

Commentators must not engage in abusive or harassing behavior, including derogatory remarks, profanity or personal attacks, the use of obscene language or gestures, threatening comments, or sexual harassment. Public comment that deviates from these guidelines may be terminated at my discretion. Public comment is limited to two minutes and speakers may be muted and/or disconnected from the meeting once their public comment has ended. At the beginning of your public comment, please introduce yourself and identify whether you are speaking as an individual or on behalf of an agency or both. And I also want to note that the order in which people will be called for public comment are the order in which people requested public comment. So, first in, first out. So, if you requested it late, we may not be able to get to you today. The time I have allocated for public comment this morning is 30 minutes. And we will start with Addie Smith. All right, I don't see Ms. Smith. So, we'll move on next to James Comstock.

James Comstock: This is James, can you hear me?

Chair Jennifer Nash: I can. All right, you may begin, Mr. Comstock.

James Comstock: Thank you. My name is James Comstock. I'm an independent defense investigator and a member of Defense Investigators of Oregon. I'm thankful that OPDC is making progress on paying us in a timely manner. I'm hopeful that the improvement continues until providers receive payment 30 days or less after invoice submission. I was deeply hurt and confused to learn that the workgroup convened to review payment policy excluded any independent investigators or members of the DIO community.

We are the ones who have been advocating for this. It is good that agencies who make their money off of employees or subcontractors have representation on the workgroup, but these agencies do not have the same interests as independent investigators. Putting only large agencies on the workgroup is akin to having only consortia representatives on a workgroup formed to address problems raised by MPD or MDI. We are told that the agency wanted to be transparent in their selection criteria for this workgroup and that the number of invoices submitted was used to choose representatives. We can clearly see that this was not the case with attorneys, interpreters, or psychologists. Why were investigators alone chosen using a criteria that excluded the very people who have been advocating for payment policy reform?

We've been told that we should be pleased that there is improvement, whether our members are asked to participate or not. That stings. It has a chilling effect

for providers wishing to advocate for themselves. At a time when the agency is under scrutiny for accusations of retaliation, it is not enough for the agency to believe that it is not retaliating. The agency must make every effort to avoid even the appearance of retaliation. The exclusion of DIO members from a workgroup on an issue that we have raised does not avoid this appearance. Large agencies cannot bring the concerns of new independent investigators, single parents, or rural investigators to the table. We ask the agency to reconsider engagement in a meaningful way with DIO leadership on this and future matters impacting public defense investigation. Thank you.

Chair Jennifer Nash: Thank you, Mr. Comstock. Next is Dawn Krantz-Watts.

Dawn Krantz: Thank you. My name is Dawn Krantz. I am an independent defense investigator and the delegate of Defense Investigators of Oregon, also known as DIO. Thank you for this opportunity. Independent investigators have been advocating for timely payments since 2019 when this issue was raised with Lane Borg at a meeting at MPD. Since then, we continue advocating for payment stability, and DIO was formed in part to address the fact that investigators have struggled to make a living due to delay and unpredictable payment times. We appreciate that our advocacy for 30 in 30 has led to more timely payments, but we are now left to wonder if that advocacy has come at a cost. While investigation agency owners who employ their own investigators should be represented, where are the independent contractors? The inclusion of three agency owners and zero independent investigators or zero DIO members feels very much retaliatory in response to our request for 30 in 30. We were told that committee members were selected based on the volume of invoices submitted.

This does not appear to be true for attorneys, interpreters, and other vendors in the workgroup. DIO as a whole submits more invoices than any other agency and yet no DIO representative was asked to participate. I personally reached out in January and February asking for face time with the agency and never received a response. We want to be a partner with OPDC. We have been pleading for the agency to engage with us. In December 2023, Commissioner Buckley specifically asked the agency to engage with us. To date, DIO leadership has not received any direct contact from the agency, and our organization engagement has generally been limited to the comments that we make at these meetings.

Chair Jennifer Nash: Thank you, Ms. Krantz, your time is concluded. Sean Coyne.

Sean Coyne: Good morning, members of the commission. My name is Sean Coyne, I'm a criminal defense investigator and a proud member of the Defense Investigators of Oregon. I'm here to express my serious concerns regarding the recent formation of a workgroup intended to address the issue of slow payments, a concern that has disproportionately impacted independent investigators like

myself and other members of DIO. At the last commission meeting, after several independent investigators voiced our concerns about these delays, we were encouraged when the commission directed OPDC to form a workgroup to explore solutions. However, that excitement quickly turned to disappointment when we learned that no independent investigators, those most directly impacted by these payment delays, were invited to participate.

It's akin to forming a committee to improve a sports team's defense, but only inviting the owners while leaving out the players and coaches who are on the field every day. The owners might have a broad perspective, but they don't know the daily grind, the challenges on the field, or the quick decisions needed during the game. Without the input of those actually in the trenches, any solution is bound to miss the mark. We are the ones who raised these concerns, and we offered to help. The exclusion of DIO members and independent investigators from this process not only undermines our efforts, but also raises questions about transparency and inclusivity. Today, I'm asking the commission to inquire directly with OPDC. Who decided the composition of this workgroup? What were the parameters for inclusion? And why were the very people most affected excluded from the conversation? We want to work collaboratively to improve this process and hope the commission will ensure our voices are included moving forward. Thank you.

Chair Jennifer Nash: Thank you. Cindy Borders.

Cindy Borders: My name's Cindy Borders, and I am also a member of DIO, and I am an independent investigator. And I really want to just reinforce everything that has been said because we are the largest group most affected by this issue. On a personal note, due to these delays, there have been times I have not been able to make quarterly tax payments, and I've ended up paying double my tax bill because of that. This impacts us very personally and very, very strongly. We really need to have our payments made within 30 days, and to have yet another workgroup after there already was an extensive workgroup seems like public defense is just swimming in an eddy and won't come up with a solution. But we do need a place at the table because we are the largest group affected. Thank you.

Chair Jennifer Nash: Thank you. Suzanne Swift.

Suzanne Swift: Hello, my name's Suzanne Swift. I am also a member of Defense Investigators of Oregon, and we would like a seat at the table. Thank you.

Chair Jennifer Nash: Thank you, Ms. Swift. Laura Rittall.

Laura Rittall: Good morning. My name is Laura Rittall. I'm an independent investigator and member of Defense Investigators of Oregon. In the past, I have been asked to collaborate with OPDC on crafting new policies. I was pleased to be a representative and brought with me the ideas and concerns from other independent investigators in the DIO community. However, OPDC only appointed agency-affiliated investigators in the recent workgroup. The rationale, as I understand it, was based on an oversimplistic and flawed analysis of who would have the most at stake based on the volume of invoices those agencies produced. It ignores the full spectrum of providers.

Not appointing even a single person who is independent from an agency circumnavigates the individuals who may be most affected by and vulnerable to changing policy decisions. It matters because independent investigators have a different business model and have different issues from the agencies that serve as employers and intermediaries. This omission feels intentional, but whether or not it was, it is certainly questionable in theory. It's like pretending to take a poll of public opinion, but only asking a certain segment of the population to partake. These things matter. For fair and inclusive policymaking, independent investigators must be represented at this table, and it should be an easy fix. Including any independent investigator is better than none, but including a representative from DIO allows for our larger community to weigh in. It is a far better measure of what is needed than one that excludes all of us. Independent investigators demand a seat at the table. Thank you.

Chair Jennifer Nash: Thank you, Ms. Rittall. Jammie Carr.

Jammie Carr: Good morning. My name is Jamie Carr and I'm the owner of Top Priority Investigations. And I too am here just to request a seat at the table for independent investigators. Thank you.

Chair Jennifer Nash: Thank you. Rachel Philips.

Rachel Philips: Good morning. Oh, sorry. Good morning. My name is Rachel Philips. Thank you for this opportunity. I did review ORS 151.216, and I want to talk about the shortage of public defense attorneys that's going on. And I would note that in the documents provided in the Emergency Board Interim Subcommittee on Public Safety at the Oregon Legislature that's going to be meeting on September 23rd, it is disturbing that one of the points that is made, that is that defense attorneys are asking courts to help verify the amount of MAC they have available when there is a discrepancy between their own numbers and what OPDC says their numbers are.

I would also note that in those materials, it shows that the number of unrepresented is trending upward and it is currently the highest it has ever

been. And with regards to exceptional circumstances pay, with regards to the lack of response to the recent report on retaliation and misleading statements that were made publicly about what's contained in that report, for example, that retaliation was documented to be occurring in 2023 and not encapsulated in between 2019 and 2020-21, as a public statement from the agency, was released to the public and says it is disturbing that the response continues to be for someone experiencing retaliation, file a complaint. Retaliation can come in late payments that can be manipulated. Retaliation can come in discrepancy between the MAC that people have available, without any kind of audit in place or any kind of checks. The agency simply saying, an OPD saying, "Oh, we've fixed this," is not inspiring confidence when the statements released were not completely true, when the fact that the retaliation is ongoing. I would note that there's litigation going on in Marion.

Chair Jennifer Nash: Thank you Ms. Philips, your time is concluded. Allie McGee, I'm sorry, Al McGee.

Al McGee: Good morning, Chair. My name is Al McGee. I am a member of the Defense Investigations of Oregon as well, I'm also an independent defense investigator. We are respectfully asking for a seat at the table. We have been asking for almost a year now for you guys to engage with us and to acknowledge us as a group. We want to be your partners, as has been mentioned before already. What do we need to do to be good enough to have a seat at this table? The policy workgroup with only three agencies is not a good thing. Being a former member of the DPSST Policy Committee as a retail rep, having served two terms, I have seen firsthand what happens in situations when it comes to policies and regulations when there is a unbalanced group making the decisions. So, having no independent contractors in this workgroup is not a good thing. We need to have a representative in that workgroup as a voice to give balance to the issues that we are all experiencing at this time, as has been brought up already in this meeting. Thank you for your time.

Chair Jennifer Nash: Thank you. Alice Gaut. Ms. Gaut, you're muted. Ms. Gaut, we cannot hear you, you're muted. There you are.

Alice Ellis Gaut: Good morning, Chair and commissioners. My name is Alice Ellis Gaut. I've been a lawyer for 44 years and an independent mitigation specialist for 15 years and I'm a proud member of DIO. I'm going to cede the remainder of my time. The remarks that have been made previously by Mr. Comstock and others accurately reflect my views. I do not believe that it is possible to come to a fair workable solution without including the people who are most affected on the ground. Thank you.

Chair Jennifer Nash: Thank you, Ms. Gaut, and I'm sorry for putting an L in your name. There isn't one on the paper I have, I just added it, so I apologize. All right, Ms. Greene.

Nina Greene Hi, my name is Nina Greene, and I am also a member of the Defense Investigators of Oregon and second what Alice said, and all of my colleagues said, that we would respectfully request a seat at the table.

Chair Jennifer Nash: Thank you. Emma Decker. All right, Piper McDaniel.

Piper McDaniel: Hi, my name is Piper McDaniel. I am a member of the Defense Investigators of Oregon, and I am standing with my colleagues and my fellow union members and seconding what they've said, and we respectfully request a seat at the table.

Chair Jennifer Nash: Thank you. Erin Howell.

Erin Howell: Good morning. My name is Erin Howell. I've been a independent defense investigator in the community for 17 years. I agree with everything my colleagues have said, and I also am requesting that the Defense Investigators of Oregon get a seat at the table.

Chair Jennifer Nash: Thank you. Thank you. Steve Wilson.

Steve Wilson: Hi, my name is, excuse me, my name is Steve Wilson. I have been an investigator working on OPDS indigent cases for 21 years. I was part of a group back in August of 2019 that submitted a proposal involving the request to have a workgroup to explore investigator issues. The proposal was signed by 52 different investigators, nearly all of them independent contractors, and nearly all of them have appeared before this board multiple times in the intervening years. It was signers of that 2019 letter who created the Defense Investigators of Oregon as a means to organize investigators, improve professional skills, and advocate with a single voice. Those investigators have demonstrated over the years their loyalty to Oregon's indigent defense system, their willingness to be involved, and frankly, as we see today, their ability to disrupt proceedings. I believe very strongly that it is a mistake to not include one or more of those investigators in the workgroup. They have proven their commitment to improving the profession and advocating on behalf of their fellow investigators and need to be involved in order for the board to hear the words and concerns of independent investigators across the state. Thank you.

Chair Jennifer Nash: Thank you. All right, that concludes the people who have requested oral public comment, and we can next move on to the next item on our agenda, which is an update regarding the unrepresented persons in Oregon. But I will also, before we move on, state that our bylaws indicate that if possible, members of the commission should have their cameras on during the meetings so that we can be sure that we have a quorum and that we know who's here, and I noticed that

there are a number of commissioners who appear to be here but do not have their cameras on. So, I just remind you of that. That's especially important during voting. We'll have to have you have your cameras on. Thank you. Ms. Kampfe and Mr. Noone.

Jessica Kampfe:

Thank you, Chair Nash, members of the commission. Our first presentation is on the unrepresented persons update. I'll be walking through the presentation and Harry Noone, our research analyst, is here to help support and answer any questions you all have about the data. Next slide, please. This first slide is showing the unrepresented population trends by various case type across Oregon. This is information that comes from the Oregon Judicial Department's unrepresented dashboard that we're sharing with you all today. Next slide. This is information that we have generated from our hourly agreements dashboard, and it shows the impact that the Temporary Hourly Increase Program is having. This is for the entire life of the program, which has gone through several iterations.

We can see in looking at the money that has been paid, that it is in excess of \$35 million that has been paid. The invoices that we have are higher than the bills paid but this is money that's gone out the door. The majority of the spending continues to be on increased hourly rates for attorneys. And then the "All Other" is for rates that would apply to preauthorized expenses. This is money that we would at some point have to pay on a case regardless of whether or not the case is subject to the Temporary Hourly Increase Program, but we're tracking all expenses related to cases handled in that program together. And then the next column reflects the amount of money that's been paid on the increased investigator fees. Through this program, we have provided representation for 4,662 clients on 6,732 cases. We can see the breakdown of the cases as well as the counties that have had the most cases handled underneath the program. Next slide, please.

This slide shows our spending by month, and you can see that the program continues to grow in the amount of cases that are handled under it and the amount of money that is being spent under this program. We expect this trend to continue as we have been improving our procedures around the program and improving our staffing for this program. And we have seen an increased need for the program, particularly in areas where there's vacancies in the contracted MAC as well as with the court's ruling in Betschart. Next slide, please. Okay, thank you, Mara, you can clear those slides.

I did have a couple of other things that I just wanted to let the commission know about and then I see we've got some questions. The one point I wanted to share with the commission is that Commissioner Harris has been in contact with our data team to talk about creating a new report for unrepresented and what kind



of data would be helpful for the commission moving forward in presenting more detailed information about that. They've been making good progress, and I hope that when we're here in October we'll have a different view and more detailed information that we can share with the commission. A lot of that is around the contracted MAC and our utilization in various areas. I also want to let the commission know that we have been invited to participate in a conversation this Friday with legislators and district attorneys and the bench and the Governor's office around unrepresented, and we are working to prepare presentation materials for that conversation so that we can bring good information to the table when we're talking with other system partners about this problem. With that, I think there's a number of commissioners with questions. Chair Nash, do you want to facilitate that? Okay.

[Crosstalk 00:28:18]

Chair Jennifer Nash: ...calling people, that'll work.

Jessica Kampfe: Okay, thank you. Commissioner Buckley.

Peter Buckley: Yes, thank you. On that very point, when you're looking at the way to display the data, in the conversation yesterday it was brought up that we don't know how many cases there are total in the system, and I'd love to see that, to compare how many cases total to how many are unrepresented. That would be great to be able to have that information.

Jessica Kampfe: Okay, thank you. And Mr. Noone, is that something that we can work towards?

Harry Noone: Chair Nash, members of the commission, Harry Noone. Yes, I think so. We can certainly run a report. It's just a question of using our caseload data and using the court's caseload data, which might lead to slightly different results, but that is something we can do.

Jessica Kampfe: Commissioner Lininger.

Tom Lininger: Hi, thank you for that report. I looked at the materials on the unrepresented problem in our agenda packet, and I continue to be struck by how Marion County and Jackson County are disproportionately affected by this problem, and more populous counties like Clackamas and Lane really don't have any problem. And I just wonder if we could get more explanation about the unique challenges in Marion and Jackson County. And then also has the time come for us to concentrate more of our resources in those counties, I know we have OPDC offices in both Marion and Jackson, but I just wonder if we need to ramp up our sort of customized approach to these counties that have such an intractable problem.

Jessica Kampfe: Thank you, Commissioner Lininger. That is actually a request that we've gotten in a number of arenas. So, as we're preparing to talk with other stakeholders, we're looking at ways that we could potentially do a county view that is comprehensive of a lot of information. So, charging information for that county, what kind of contractors we have. So, do we have consortia? Do we have nonprofit public defender offices? And then what kind of other public defenders are working within that system? What's the percentage of hourly folks? How are we doing on... Do we have state trial offices? And then within that context, what is the sort of case pickup information? And so that is one of the things that our data team is working on right now is trying to figure out how we can do sort of an overview at the county level that gives the full picture for that county, so that we can have a better understanding of what's happening in these targeted counties that have the highest population. I'm hopeful that that's going to be part of the presentation that you all see in October with the data that Commissioner Harris has been talking with the data team about generating, as well as the type of information we're hoping to pull together for this Friday's meeting. Commissioner Harris.

Robert Harris: Thank you for the presentation. Excuse me. In an effort to make lemonade out of lemons, I guess, a little bit here. Do we have the data? And I'm sure we do, maybe Mr. Noone and I can talk about this, on the THIP program. We should have data for hours billed by case type in custody, out of custody. And also there's probably hourly reports that you have from your state trial offices as far as time spent on case types in custody, out of custody. And it seems like a real opportunity to double-check our math, our work on the duty hours per year. And so I think the data, it's unfortunate we have unrepresented people and they've gone hourly, in some ways. In some ways, it's good, but this allows us, I think, to see what kind of investigative hours, attorney hours, paralegal hours that are averaged spent for many of these cases.

Because there's 4,600 cases now that you've got under the THIP program. That's a substantial amount of data that we could take a look at and maybe make use of it. And maybe even look, apply that to Marion County and see what they're doing and compare that. So, Commissioner Lininger made a good point about these two counties. Is there data that we should be looking at to lead the way on how to then effectively apply our resources? Thanks.

Jessica Kampfe: Thank you, Commissioner Harris. Do other commissioners have any further questions or are we ready to move to the next agenda item? Okay, that looks like it concludes the questions. Thank you.

Chair Jennifer Nash: Thank you. All right, moving on to the next item, which is our budget update. Mr. Amador.

Ralph Amador: Good morning, Chair Nash, members of the commission, Ralph Amador. For the Public Defense Commission, I will share my screen right now. And hopefully you all can see that.

Jessica Kampfe: Not yet, Mr. Amador.

Ralph Amador: Not yet. That's great. Now, yep, there it is.

Jessica Kampfe: Yep.

Ralph Amador: There's a third button I had to push. Sorry about that. So, good morning. This is a budget presentation for the period ending July 31st of 2024 for the Oregon Public Defense Commission. We'll jump right into contract payments. And again, we're going to show the adult criminal area. There hasn't been a whole lot of change there. The vacancies are still about where they've been for a while there, but hopefully we'd like to see some movement. They've done some recent amendments for September to try and bring folks on, and that's some data I got from the Trial Support and Development Division. One thing is that we're showing a \$4.8 million variance, positive variance, and that is with 8 million being held back for the money we got for the re-criminalization and the additional MAC we got in the short session as well. So, that number is a little bit bigger, but we've earmarked that money to make sure that we can fund the attorneys and the additional staff that has been allotted to us.

Juvenile Division, that's performing just about as we expected it to do. There's been a little bit of movement on this to try and achieve some of the deficit that's there. We will continue to monitor this one to see where we're at and trying to find different solutions to try and fill that gap, maybe with some IV-E money or something like that. One of the things that we did do this month was we sent reports into the Oregon Department of Human Services to get all the money we have for IV-E sent over to us so we can eliminate that issue as well. And we'll look to other resources from there. Again, you'll see we're spending about 54% of the budget, and 54% is spent or projected. PCR, not a whole lot of change there, performing as expected according to the contract. Again, these are all contract payments. Showing a similar variance to what we showed last month. There's not a whole lot to report on that one. We're going to vendor services.

Pre-authorized expenditures, that's performing just about as we're projecting it to go. We expect there to be more increases in expenditures as the THIP program continues to bring stuff in. Again, one of the caveats with pre-authorized expenditures is that the amount of invoices and the amount of work is going up because of the hourly cases that are taken and the amount, just the

volume that's happening. So, we've spent... We hopefully will retain some of this positive variance, but I look to see that decay in the coming months as we keep going forward.

Court-mandated expense. You'll see that we're projecting a problem in court mandated expense. A lot of the attorney bills are starting to hit court mandated expense from the changes that have been done over the past months with the THIP program and everything else. The reason why there is a projected issue is that we've increased projections \$600,000 per month to try and meet what we're projecting for increased caseloads, and we have three different internal data trackers that we do between the data and the budget team that we monitor on a weekly basis to make sure we're watching all of this as it goes forward. And hopefully that I'd like to see the negative variance go down. But again, as people are billing on a monthly basis now, where expenses that we would normally see at the end of cases are coming more frequently, so as we change policy too for people to bill on a monthly basis, rather than at the end of the case, we're going to see increased expenditures going forward in this area.

Chair Jennifer Nash: And Mr. Amador, just to be very clear, the court mandated expense that we're looking at, this is the attorney's fees, particularly for the temporary increase hourly program, correct?

Ralph Amador: Chair Nash, that is correct. This is where the majority of payments are, yes. Staff costs, services, and supplies. The pilot project, this is showing a positive variance at this point, but we'd look for the expenditures to increase as we bring more attorneys and staff on and get those offices more staffed up. You can look for these expenditures to... Oh, sorry about that. We can look for these expenditures to, or the actuals to go up over the next few months in planned and actuals, as we start weaving in the costs of people being hired. This reflects vacancies at this point, but as we hire them, these planned expenditures will increase into the actuals as well. So, we'll see how this pans out. But again, we had late starts on a lot of these areas, so there's some expenditures. And these are one-time savings. So, this isn't stuff that we can plan and use in other areas for continued projects, if that makes sense.

Appellate, appellate is appellate. Appellate's doing a great job as being appellate attorneys, and they are balanced on their budget, and there's not a whole lot I can say but good things about them. Administrative and executive, again, performing as planned. We did get authorization, or I'm sorry, we did not get authorization. We are asking for authorization to bring on additional staff for PAE, our pre-authorized expenditure unit, and for our accounts payable unit for limited duration staff through the remainder of the biennium, so that we can stay at the levels and hopefully get better on our payments. But again, that has to come out of this ending variance balance. So, this balance should decay as

the months go by. CAP, Compliance, Audit and Performance, performing as we expected. Nothing big to see here, nothing changing. It's just keeping their normal variance, basically due to vacancy savings.

Financial case management system, actuals are up a little bit. We brought in some...additional project manager and another business analyst. So, this, the actuals may go up over time, but the remaining variance is the remaining variance, mainly because of the projects. It hasn't gone out to bid or for RFP or anything yet. If we do get some work done this biennium on the project, once we get a vendor selected and get moving, this variance will go down. Special programs, contracts, and distribution, this is where the discovery is, and some other things. Other contracts are performing as they should because they're 2024 contracts for guardianship. We have got all the money recouped that we contracted for some funding for training. I'm lost at what it was before through this, that we had some training done and stipends and stuff like that, to where we got a grant from the CJC, and so then we were able to bring all that money over. So, we're whole on that respect there. That's the end of that presentation. If there's any questions, I'm happy to entertain them.

Chair Jennifer Nash: Do any commissioners have any budget questions? It does not look like we do but thank you very much for your presentation. I have one quick question. You said both that the additional staff for PAE and AP was both authorized and not authorized. So, is it authorized or not authorized?

Ralph Amador: Chair Nash, it is not authorized because we have not had the Emergency Board yet. We have asked for that. We've hired additional staff throughout the year that we've been carrying those costs for, and so then we'll make a decision afterwards. If it's not authorized, then we have to make a decision whether we continue that staff to go at our existing levels. And it looks like we have variance to continue with that thing, but we're asking for limited duration permission right now.

Chair Jennifer Nash: So, you've hired temporary staff, and you want to bring them on, and we've asked the E Board to bring them on for limited duration positions.

Ralph Amador: Yes, ma'am.

Chair Jennifer Nash: All right, thank you. Commissioner Harris. You're muted, Rob.

Robert Harris: Sorry about that. Thank you, Mr. Amador. And this may be a question for you or Director Kampfe, I'm not sure, but on any of the state trial offices, I think you have that under pilot projects, are any of them fully staffed up at this point?

Jessica Kampfe: Thank you, Mr. Amador. Sorry, thank you, Mr. Harris. I don't believe so because we got additional funding under 4002 to add staff, and so we're still hiring for all of those positions. I think we are close to fully hired, but I don't think everybody has started yet. So, there's been a lot of recruitment activity for those offices. And I think it's starting to wind down, but I don't believe that they're fully staffed.

Robert Harris: Can you tell me how many authorized positions there are? There's three offices, is that right? Can you tell me how many authorized positions for each office? If you know off the top of your head, you may not.

Jessica Kampfe: There are three offices, and I will send a note to someone right now to ask that question and I'll get the answer for you.

Robert Harris: Thank you.

Chair Jennifer Nash: Thank you. All right, let's move on and talk about accounts payable and the workgroup that we've heard a fair amount about this morning.

Ralph Amador: Good morning again, Commissioner Nash, I mean, I'm sorry, Chair Nash, Vice Chair Mandiberg and members of the commission. Ralph Amador again, chief financial officer, and I will be talking about the AP workgroup. Let me attempt to share my slides in a more conventional manner this time by pushing all of the buttons that I should. And is it there? Okay, great. So, again, my name is Ralph Amador, chief financial officer, and a member of the AP workgroup. So, the workgroup, we originally invited 16 participants in the workgroup, and we had responses from 9 people. And these were the people. We asked them if we could use their names, and they said yes. Attorneys were Elizabeth Baker, Shawna Meyer, Patrick Sweeney, investigator Dawn Hartwell, Joel Manley, Skip Raddle from Virtus. Interpreter was Adrian Arias, psychologist Breann Martin, and Lizzie MacKenzie.

And again, our rationale is we tried to use a data-driven model to bring folks on and just in the fairest way we could. The OPDC data team was able to confirm the top vendors by extracting AP information from four categories above, measured an overall dollar amount or total number of individual bills handled. And they accounted for the largest volume of invoices paid in the agency in 2024. They were chosen because of their experience with the OPDC accounts payable process and are able to offer insight, feedback based on personal experiences.

Chair Jennifer Nash: So, Mr. Amador, if I could interrupt, is that across the board? So, investigators, attorneys, psychologists, was it all...? Can you just, given the amount of public comment, can you just talk a little bit more about how it is that the agency

made the determination of who to include on the workgroup, a little bit more about that process?

Ralph Amador: So, yes, ma'am. So, we actually went through our database. We said, who are the top people? Who's the top money, top billers, top everything else. And went down from there in these individual categories. Just our rationale was like, who's doing the most business with us? Because they may be the ones that are most affected. Again, from public testimony, it seems like that folks feel like they were left out. And if they were, then we can certainly bring them on. But this has been a collaborative process to where we have said in every stop that if you have information or advice to contact some of these workgroups, which is why we asked these folks to do this. Again, it was a purely data-driven decision from our records of the amount of people and invoices and money that was actually going out the door.

Chair Jennifer Nash: Okay, I have a couple commissioners who've raised their hands now. So, I'm going to call on them to ask some questions. I think first, Addie Smith.

Addie Smith: Thanks, and I'm happy to wait till the end if that's your preference, Chair.

Chair Jennifer Nash: If you have a question now, it's probably easier to ask it now.

Addie Smith: Okay, that sounds great. I appreciate the attempt to use objective information very much. I think it's always important to be fair and show propriety. I will say sort of traditionally when workgroups like this are formed by governmental entities, often what is done is identifying key stakeholder groups of individuals and then ensuring that there's representation across those stakeholder workgroups and often letting the stakeholder groups that are involved, independent investigators, agency investigators, sort of like you've done here with attorneys, psychologists, etc., but looking below that and making sure that all relevant voices have representation at the table. And I think we obviously heard some feedback about that today, and it sounds like this workgroup is ongoing and there's still room to sort of pivot and correct. But I think that's just a suggestion that I would make is considering under each of these four categories, are we including someone from each of the major provider communities that we work with on the regular? Having their voices at the table, I think, is really important.

Jessica Kampfe: And if I could just respond – thank you, Commissioner Smith, and we are happy to do that in a forward-looking way. This was the first convening of this workgroup. Everybody involved felt that it was a good experience, that they got meaningful outcomes from it. And so everyone has agreed to continue to participate and to have future workgroup meetings. So, we can certainly make sure that we do that moving forward. We were really trying to move very

quickly because we'd gotten direction from this commission that they wanted, from the last commission meeting to this commission meeting, which is only 30 days for us to stand up this workgroup, have our first meeting. And so we pulled this together in about a week and a half worth of time. And so that is good input to have, and we can certainly use it as we build towards our second iteration of the workgroup, which is, I believe, meeting the first week of October.

Chair Jennifer Nash: Thank you very much for that. Commissioner Buckley.

Peter Buckley: I would just like to echo what Addie was saying, and I really encourage the agency to always err on the side of inclusiveness, and I sincerely hope that the independent investigators will be added to this workgroup as requested. Thank you.

Chair Jennifer Nash: Thank you very much. Are there other questions? Oh, Brook.

Brook Reinhard: Just briefly, I participated in the first workgroup. I thought it went well, but there were actually some things I wondered about that I think the voices of independent investigators would do really well adding to the conversation. So, I'm looking forward to hopefully participating with some of them. Thank you.

Chair Jennifer Nash: Thank you very much. All right, Mr. Amador, continue. Thank you.

Ralph Amador: Thank you, Chair Nash. Workgroup recommendations. The agency presented information regarding an increase of volume in accounts payable, then discussed improvements that have already been implemented to try to work with this increased volume. Agency restraints were reviewed and OPDC shared examples of invoices and common billing issues. This helped demonstrate some of the situations that have come frequently for accounts payable. Those situations directly impact the payment process times. This was shared to give some additional context to vendors, so they have an initial understanding while assisting to develop solutions. These four recommendations were made by the workgroup. Routine record reimbursement, FAQs for AP, FAQs for preauthorized expenditures, and interpreters policy modification FAQs.

Recommendation one, the agency expects this form to be live by the end of the month, and the investigators expressed concern over frequent or regular out-of-pocket expenses for various types of records needed on cases. Agency understands investigators pay out-of-pocket often with their own personal credit cards. This affects their finances directly and they have to wait till the end. Usually they have to wait till they turn their PAE in at the end of it. And so they're sitting on those bills, and we recognize that. The solution was the agency is going to create an online submission form specifically for routine records reimbursement. This will prevent investigators from having to wait to submit



any reimbursement for this type of expense. Current amounts listed for the schedule of government amounts will apply with the maximum amount of 500 for murder and 300 for all other cases. It was a big thing for the investigators saying that, "Hey, we have to sit on these expenses and credit cards and stuff." And we recognize that. The one thing that I will say that once they go in, they'll go in the normal queue. So, our normal processing thing is first in, first out. But again, it will allow them to be reimbursed for something that they had to pay out-of-pocket for in month one of a six-month endeavor rather than wait seven months to pay it off. So, that's one solution that we're recommending to do.

Recommendation number two was an FAQ for accounts payable, and we've had several iterations of that put out there, but we're going to do an official accounts payable FAQ that we will share. And again, these will all be live documents. So, as we're going with these workgroups and stuff, we can add to or take away from these FAQs. And they'll be posted post it on the internet, on our webpage and everything else to try and create solutions. And this will be for the most issues that happen and things that folks can get some personal assistance for and things that other folks have seen. So, Commissioner Parrish Taylor has her hand up.

Jennifer Parrish Taylor: Yeah, one of the things that's really kind of sit [Phonetic 00:53:04] with me with the public comments is that we've heard a number of times that folks had to come out of pocket, or they had to pay twice the amount of what they had to because of the delay on our end. And I think for the workgroup, my question would be to what extent is there a conversation around how do we make folks whole when we have situations like that? Where because the agency is slow in responding because of our processes, folks are having to face a penalty they otherwise wouldn't face had they received the reimbursements on time.

Ralph Amador: I believe it's... Commissioner Taylor, thank you for the comment. I really think that we're addressing those concerns, and this is first recommendation number one was our first bite of the apple of trying to rectify those things and get it done properly. So, hopefully throughout the rest of these workgroups, we'll be able to find other solutions that we can actually do. We are bound by statutes on some things, that there are things that we can and can't do, but we are working to find all solutions that we can to make people whole. FAQ for accounts payable, I think we discussed that. Commissioner Harris, you have a question?

Robert Harris: I'm sorry, I thought you were done with the main part of the presentation. I'm going to wait till you're done, Ralph. Sorry about that.

Ralph Amador: No problem, sir. No problem. Recommendation number three was FAQs for pre-authorized expenditures. Again, it's the same thing with the AP. We want to get

the biggest issues that are out there, the problems, the pitfalls, and the things that we can publish a document out there so that folks don't have to reach out to people. If somebody experienced a problem, it's usually because somebody else has had the same problem. And if we can get these answers out there for people to see, then that'll be helpful for everyone else. Again, they will be live documents, living documents, I'm sorry, that we will update and make changes to as we go forward with that.

The fourth, sorry about that. The fourth recommendation was interpreter policy modification, FAQ. Interpreters are the only non-attorney group of providers that is currently able to bill their services on a worksheet in place of a PAE when the services are routine. These services are signed off by an attorney confirming the work that was completed before it can be submitted for billing. There's currently an allowance made for telephonic and video interpretations as well. Interpreters expressed difficulty in getting attorneys to sign off on the worksheet so that their invoices can be submitted for payment. Where their solution is that we're going to make a change to the... We're going to recommend a change to the routine expense policy, and it'll be presented later today, which eliminates the requirement for a signature. We'll have specific things on there like they'll still submit a worksheet showing the attorney, the case number, stuff like that, work that they've done, but we're going to try and remove some of the burden of them having to run around and hunt for people to get signatures on things. If they did the work and they're submitting something in good faith, as an agency, we are in good faith going to pay those invoices so that everybody is held, and we eliminate that pitfall as it seems there. This is just more talking about what I said. And so we hopefully, with this new change in the PAE and in the other things that we'll be able to...and we'll also put this on the FAQ documents so we can help clear this up and we'll see how this one plays out. Hopefully, it gets rid of some of the situations that are happening.

Next steps. Overall, the group found we... The feedback we got was they found the meeting very useful and agreed that it should continue. And over the next several weeks, if any other vendors would like to provide input, we provided the contact information of the members of the workgroup, and we hope that they'll contact them to share their thoughts so that we relay it to the next meeting. The agency is open to all suggestions and is looking forward to continued progress. As Director Kampfe stated earlier, our next meeting is currently scheduled for October 3rd at 10 o'clock in the morning. One final thing. There has been a lot of questions about when the agency receives an invoice and about the time of payment. And so we put together this slide and I've got some verbiage to talk about how we do things, but really it's just there's two pictures on here. One are things that we can control. One are things we can't control. The things that we can control are when the invoice comes in, when we process

it, when we send it out, and when we send it out for payment. When it goes to the bank, then it either goes two days, it goes to the vendor, or it hits the U.S. mail. So, that's what this slide says in general.

And so just as an overview, when an invoice is submitted using the Nintex form, the system does several checks internally to confirm that the submission was valid. Examples are it confirms the validity of a vendor number and checks for duplicate PAE numbers. After the invoice passes this first system check, Nintex then generates an automated confirmation email that is sent directly to the provider. The email has a date and timestamp on it, along with an AP number, which is the confirmation number for that submission. Within a few minutes of that confirmation email being sent out, the invoice comes into the queue for the intake staff. It's labeled with that date, and that's where the invoice date comes from.

The invoice submission page in OPDC's website is updated weekly with current payment, date of payments being released. That date reflects the invoice date described above. When asked about how many days out accounts payable is, OPDC is counting from today's date back to the invoice date that is being released for payment. These days are counted as calendar days and never business days. When a payment is released, that means accounts payable has completed the processing of the invoice. Payment has been approved and sent to DAS to be issued. It generally takes two business days for direct deposit to hit the vendor's bank or for a paper check to be mailed. And once it's mailed, we have no control over that. And so this slide just overviews that.

Chair Jennifer Nash: Okay, so I want to clarify what you're saying. So, when OPDC publishes its times, you start when that email is generated saying we've received the invoice confirmation that your invoice has been received until the date that it's sent to DAS for payment. Is that right?

Ralph Amador: Yes, ma'am.

Chair Jennifer Nash: Okay. Are there any questions about that? I know, Rob, you had a question. I have a couple of follow-up questions, but you first, please.

Robert Harris: Yeah, thank you. I just wanted to follow up on Commissioners Buckley and whoever else that was. I can't recall who made the comments regarding the inclusion, more people in this particular workgroup. I just want to make the point that this agency has a history over the last several years of not working well with smaller providers or independent contractors. And that's why ODCA and DIO were formed, largely, is because of that. That was a response to the agency's conduct. It has changed. That was under prior directors. But there's still a lot of people worked under that paradigm. And maybe it hasn't changed

enough, given this workgroup. But as Commissioner Smith, she was the other one that made the astute comment in this case of it is objective criteria that you've selected these people, but you still get to pick which objective criteria you're looking at. And the objective criteria should include all stakeholder types. And now that we have ODC and DIO being pretty active and largely and broadly representative of these smaller providers, I would encourage the agency to work closer with the leadership of those two groups in order to make sure that all information and provider types are included in these workgroups going forward. Thank you.

Chair Jennifer Nash: Thank you. Just so that people who are watching the meeting know, Mr. Amador, can you tell us as of today what the processing time is for accounts payable?

Ralph Amador: Sure, yes. Thank you very much. I believe it's 32 days at this point. When I pre-checked yesterday, it was 33 and 32, 32 days at the end of yesterday. Oh, I'm sorry. I just got a note from Carla saying we are at 30, Carla Bethel, who's our accounts payable manager, she just sent me a thing saying we're 30 days today.

Chair Jennifer Nash: And last meeting we were at 47, is that right? 30 days ago, about that?

Ralph Amador: Yes, ma'am. Somewhere around it. I don't know for sure, but I will say yes.

Chair Jennifer Nash: Thank you. And thank you for the improvements that have been made to decrease that time. That's been the number one thing we've heard public comment about for months, and we appreciate the agency's work on that very, very much, and I know vendors do as well. And then the other thing that I know I've heard internally, and I think it's important to talk about in the larger meeting, and Director Kampfe, or you and Mr. Amador can talk about this, is that the amount of money that has been flagged as being inaccurately billed that's been audited by the agency. And I'd just like you to talk about how that's not an insignificant amount and how important it is for the agency to continue to engage in the audit function for invoices.

Jessica Kampfe: Thank you. We do have databases where we are tracking information from accounts payable, including tracking the number of corrections. We track those corrections by the type of bill they are. We track it down to the providers that are billing us. And the volume of corrections that we do is very high, and the amount of money that is billed incorrectly is also very high. This is, I think, largely due to how much confusion there is about what the rates are that people can bill on. So, that confusion happens largely because people have open caseloads that span different billing amount cycles. So, it's not uncommon in 2024 for somebody to have a case that they were appointed to in 2021. Well, in 2023, the Legislature increased our hourly rates for attorneys, for everybody, by

8.8%, and also for attorneys more than that and investigators more than that. But if you have a case from before 2023, you're still billing under the before-2023 rates.

And then not everybody knew that the rates changed in 2023. We've been trying to get that information out. But as was noted by this workgroup in asking for some FAQs on different things, not everybody is aware of what the current rates are. And so the 2023 cases are billed at a different rate. If a case is subject to the temporary hourly increased program, it may have a different rate associated with it too. And so providers that are doing this billing have cases that they're working on where they're billing on different rates for different cases, and that creates a lot of confusion. And so it's not surprising to us that we see a great number of errors in the hourly billing rates, but it is something that we flag, and it's in the millions of dollars' worth of errors in hourly billing. So, it is important for us to continue to audit this area and to have fiscal responsibility around these rates.

Chair Jennifer Nash: Thank you. Brook.

Brook Reinhard: Thank you. Mr. Amador, just one quick question. When you said we're at 30 days now, that doesn't mean 30 days from I submit an invoice to I get it direct deposited. That means 30 days from the agency receiving the invoice, which is usually a one-day period of delay, and then like four or five days for DAS to cut a check. Is that right?

Ralph Amador: Commissioner Reinhard, again, our days out is when an invoice is stamped as being approved, received by the agency to the amount of time to where we release it to DAS. DAS, it's usually a two-day delay. So, once we release it, you'll get it...the vendor usually gets another invoice saying that your payment has been released for payment. And it's generally two days for it to get processed through an overnight and then hit the banks at that point, generally two days. So, again, when you say four days, that would infer that there was a over the weekend and a holiday, that would probably be four days or something like that. But again, we try to stay... That's why that picture said, the things that we can control, the things that we can't control. So, 30 days is our process. If you want to include DAS process, then of course it would be 32 days. But again, we can't control the banking industry. And there's still some folks that have mail that are not on direct deposit, and again, that's U.S. Postal Service and we can't...

Brook Reinhard: Sure. No, I just wanted to clarify what the terminology was. I appreciate it. Thank you very much.

Ralph Amador: Yes, sir. And we are doing timing, as I will say in the workgroup, you requested us to do timings on certain things, and the staff is actually doing timings on things. So, we will present that to the next workgroup for you to show the timings of how things are processed and everything else, just so that if we can find improvements there. And one last thing, if I could, this is not anything to do with me. This is solely these achievements are being made by the Preauthorized Expense Unit folks and the AP Unit folks. They're the ones that are in the grind, doing all the work, and really cranking this stuff out. So, all credit and everything goes to them and only them. Thank you.

Chair Jennifer Nash: Thanks. I just have one other question that might be sort of obvious, but I'll ask it anyway. So, the idea that we've talked about for several months is that once we were able to add that temporary staff in, that we'd be able to start processing some of these invoices and the PAEs faster. Have you... I'm assuming that's made a significant difference, having the staff that's been increased to do that. Is that right?

Ralph Amador: Chair Nash, that is correct. It does take time to train people up, and we do have to also a lot for... I mean, absences and people, we've gone through people who come in and say, "Yeah, this isn't the type of work I want to do." We've just lost another person on family leave today. So, again, that's going to create a bit of a delay, but it has... Without adding in additional staff, we would be 60-plus days out on a lot of these things because we just can't handle the volume.

Chair Jennifer Nash: Can you just, just so people understand, give a little more of the context, how many accounts payable staff are there?

Ralph Amador: There are currently nine.

Chair Jennifer Nash: And how many...

Ralph Amador: That plus three additional.

Chair Jennifer Nash: And how many... So, you had six and then three of the temporary staff?

Ralph Amador: No, nine and then three additional temporary staff.

Chair Jennifer Nash: Okay, so 12 total, 3 of them are temporary?

Ralph Amador: Yes, ma'am, if we keep them hired, yes.

Chair Jennifer Nash: And then how about the PAE staff?

Ralph Amador: PAE staff was two intake and two for approvals. We've added two additional intake folks to help us get through that because of the volume that comes in and they get approvals from that point there, plus a manager. We've had Amy Jackson assume to being the manager there to actually manage that entire process because the volume is just so huge, so.

Chair Jennifer Nash: Okay, great, that's very helpful information I think for everybody. Does anyone have any questions? Okay, thank you very much for that information. Let's move on next to our action items regarding policy updates, Ms. Jackson and Ms. Freeman.

Kim Freeman: Good morning, excuse me, good morning, Chair Nash, Vice Chair Mandiberg, and commission. I'm Kim Freeman, the CAP Manager, which is Compliance, Audit and Performance. Amy Jackson will not be with us this morning, so I will be sharing the updated policies for approval. We're going to first talk about preauthorized expenses, then we'll do, I believe, a schedule of guidelines and then routine expenses. In your packet, you have received our memo. So, the last time we were before the commission was in June, June 13th, and you approved the policies as of that date.

Since then, the staff here at OPDC, along with any external feedback, we have come before you today with the proposed changes. We will continue to review changes after this date, and we have until our next due date is October 21st. And the reason we always have a due date is internally then we need to review all the proposed changes, look at language, ensure that it does make sense with our processes and the policy team. And so then you will see those additional changes when we come back in December. In the memo, we did provide a policy email address. So, any additional feedback from any of our stakeholders, vendors, please email our policy email address, which is [policy@opdc.state.or.us](mailto:policy@opdc.state.or.us). I know that's a very long email, but it is also listed in the memo in the commission packet for future reference.

So, first up for your review and approval today is the preauthorized expenses. Again, we've listed all the sections here. We've included the policy, and the policy document all highlighted in yellow with what the existing language was from June and the proposed language if approved today. Last quarter, we didn't go through everything. I'm happy to go through each one if needed. If not, I believe they're pretty clear. And again, we are working with our stakeholders and our PAE team to ensure that the language that we have in every section is clear to our internal staff but also clear to our providers. So, a lot of this is taking all the feedback and just making sure that we are clear in what our policy is.

Chair Jennifer Nash: Thank you. Ms. Freeman, Commissioner Mandiberg has a question, but before I call on her, I think just procedurally, it makes a lot of sense for you to put this

slide up as you have for each section, ask if commissioners have questions, and then we'll vote on each individual. So, first, preauthorized expenses, then the schedule of routine...

Kim Freeman: Yes.

Chair Jennifer Nash: Okay. All right.

Kim Freeman: Yes. Each one separately. Thank you for the clarification, that was my plan.

Chair Jennifer Nash: Sure. Sure. Commissioner Mandiberg.

Susan Mandiberg: Thank you. So, my question doesn't imply that I want any changes to what we're voting on today, but in reading through all this, I was struck for the first time, which is probably my fault, that a lot of these policies apply to people who are pro se defendants, people who are representing themselves. Did I get that right?

Chair Jennifer Nash: Well, I think they apply to anyone who qualifies for counsel.

Susan Mandiberg: Yeah, even if they're representing themselves. And so one of the things that I wondered was, I understand that the language in the policies makes sense to internal staff and probably makes sense to providers because they're professionals who have to deal with this all the time. But based on people I've represented, I don't think a pro se defendant who's representing himself or herself or themselves could understand how to apply for preauthorized expenses or get things in on time and with all of the required support. And I'm wondering if in the future, it's possible for your team to put together, especially for pro se defendants, a sort of step-by-step list in plain English of what people have to do and what the deadlines are for doing it. Because I would hate to see people who choose to represent themselves not get the help that they need because they don't understand the language in this policy. So, just a suggestion for the future.

Chair Jennifer Nash: Thank you. I think, I mean, that's a point really well taken. And when I was listening to the worker recommendations about the frequently asked questions, that's the first thing that popped in my head was those policies are really hard to read, even for lawyers. And having the FAQ, I think, could help both for professionals who are trying to use the policies, but definitely for people who are not represented. So, I think that makes a lot of sense, and I really appreciate your feedback and your input about that. Thought I saw Brook or somebody else who had that. Nope, someone else. Okay, nope. Does anybody have any other questions or comments about the preauthorized expense proposal revisions?



Kim Freeman: Chair Nash, I did receive a Teams chat from Kristen who is on our PAE team. And so comments well taken from Vice Chair Mandiberg, I've made notes, but if someone, if a pro se client does have questions, they will call in and ask or mail in letters that are responded to. But I will put that on our to-do list for our frequently asked questions, and we can make sure it's hopefully in a really good spot on our webpage, right? There's lots of comments our webpage is not the most easy to maneuver or to find information. And so we will figure out the best place to put that and maybe that's multiple places on our website and we can link things hopefully in a much clearer... So, we will do that.

Chair Jennifer Nash: I have a hard time finding things I'm looking for on the website, and I supposedly know where they are. So, I realize we don't have staff to redo the website, but that's on our wish list of things to do at some point, I think. All right. And with that, I will ask for a motion to adopt the recommended changes to the preauthorized expenses as indicated in this slide in our materials.

Robert Harris: So moved, Commissioner Harris.

Chair Jennifer Nash: Thank you. And a second?

Jennifer Parrish Taylor: I'll second.

Chair Jennifer Nash: All right. And we will need a roll call vote. Who is going to do that?

Addie Smith: Can you hear me? Now we can. Okay, thank you. Commissioner Smith? Yes. Commissioner Harvey?

Alton Harvey Jr.: Yes.

Addie Smith: Commissioner Nash?

Chair Jennifer Nash: Yes.

Addie Smith: Commissioner Parrish Taylor?

Jennifer Parrish Taylor: Yes.

Addie Smith: Commissioner Buckley?

Peter Buckley: Yes.

Addie Smith: Commissioner Selander?

Bob Selander: Yes.

Addie Smith: Commissioner Harris?

Robert Harris: Yes.

Addie Smith: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Addie Smith: And Commissioner Lininger?

Tom Lininger: Yes.

Addie Smith: Thank you very much, motion passed.

Chair Jennifer Nash: Thank you very much. All right, moving on to the schedule of guideline amounts.

Kim Freeman: Next slide please, Mara. Thank you. Okay, so our next one that we are going to speak about this morning is our schedule of guidelines. Again, the same information applies. We take internal and external feedback. Our due date for any additional comments is October 21st. Please email the policy email box here at OPDC. Again, we have done some clarification around these two items that are listed here, both in your memo and in the policy. So, one thing I'll just point out, the fiscal impact is unknown on this policy because as expenses come in, we will continue to monitor that. And I know Mr. Amadar will show that in his budget reflections as he presents those. And if there's further questions, happy to entertain those. If not, I would seek a motion that's listed on the policy document.

Chair Jennifer Nash: Do any commissioners have any questions about the proposed changes to the schedule of guideline amounts? All right, I don't see any questions. So, is there a motion to approve the changes to the schedule of guideline amounts as proposed?

Peter Buckley: So moved.

Robert Harris: So moved, Commissioner... I'll second.

Chair Jennifer Nash: All right, we have Commissioner Buckley and Commissioner Harris moving and second, and we need a roll call vote.

Addie Smith: I'll do that again. Commissioner Smith? Yes. Commissioner Harvey?

Alton Harvey Jr.: Yes.

Addie Smith: Commissioner Nash?

Chair Jennifer Nash: Yes.

Addie Smith: Commissioner Parrish Taylor?

Jennifer Parrish Taylor: Yes.

Addie Smith: Commissioner Buckley?

Peter Buckley: Yes.

Addie Smith: Commissioner Selander?

Bob Selander: Yes.

Addie Smith: Commissioner Harris?

Robert Harris: Yes.

Addie Smith: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Addie Smith: And Commissioner Lininger?

Tom Lininger: Yes.

Addie Smith: Thank you, motion passed.

Chair Jennifer Nash: All right, wonderful. Moving on to the routine expense proposed changes.

Kim Freeman: Thank you, Mara, for the slide up. Again, here is our proposed changes for the routine expenses. Again, really thanking comments from some of our providers to really make sure that our policies are clear, especially around some of our mileage reimbursement and travel time. We've been seeking a lot of information on that and making sure that we're clear. So, I just want to, again, shout out to our providers who provide feedback to us because that's really critical. There's no fiscal impact changes to this particular policy. Again, same due dates of October 21st. Any response that you would like to see proposed change, please have it in by the due date of October 21st. There is no fiscal impact, and I would entertain a motion that's listed on your policy memo.

Chair Jennifer Nash: Are there any questions before we move on to a motion about the routine expense proposals? All right, it doesn't look like there are any questions. Is there a motion to adopt the routine expense proposed changes?

Susan Mandiberg: So moved.

Chair Jennifer Nash: And a second?

Alton Harvey Jr.: A second.

Chair Jennifer Nash: Thank you. And a roll call vote.

Addie Smith: Commissioner Smith? Yes. Commissioner Harvey?

Alton Harvey Jr.: Yes.

Addie Smith: Commissioner Nash?

Chair Jennifer Nash: Yes.

Addie Smith: Commissioner Parrish Taylor?

Jennifer Parrish Taylor: Yes.

Addie Smith: Commissioner Buckley?

Peter Buckley: Yes.

Addie Smith: Commissioner Selander?

Bob Selander: Yes.

Addie Smith: Commissioner Harris?

Robert Harris: Yes.

Addie Smith: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Addie Smith: And Commissioner Lininger?

Tom Lininger: Yes.

Addie Smith: Thank you very much. Motion passed.

Chair Jennifer Nash: Thank you very much. And thank you very much for bringing these proposed changes to us and working with the provider to make changes as appropriate. We really appreciate that. Moving on next to Vice Chair Mandiberg to discuss the executive director performance evaluation process.

Susan Mandiberg: Thank you, Chair Nash. So, you may have noticed that this is on as an update and not as an action item. Originally, we had talked in August about it being on as an action item. And we don't need the slides. Thank you, Mara. And I asked for it to be changed to an update because doing this evaluation between now and November when it was supposed to be done will be very time-consuming. And looking at what the commission needs to accomplish between now and the end of this calendar year, there are a number of things on our agenda that are very time-consuming in terms of reading documentation and making decisions that are required to be done. And this executive director evaluation is not anything that we're required to do at this moment, either by statute or by our internal guidelines.

The other thing that affected my decision to take this off as an action item... There were really two other things. One is that in looking back at the ways this has been discussed, it has not been discussed very thoroughly. It was brought before the commission in August and there was virtually no conversation about it. I had asked in August for anyone who had feedback or concerns to get in touch with me through the agency. And I heard no concerns and no feedback at all until about a week ago. [Laughter] And I, at that point, heard some concerns from a variety of sources that made me think about what we were doing. And then when I looked more carefully at the plan that had been before the commission and also thought about the next report that I'm supposed to give on the best practices, one of the things that came out, and I'll talk about more in the best practices report, is that the commission has never actually developed a list of performance expectations for the executive director.

And so that made me wonder what on earth it is we're evaluating when we're asking people to evaluate the executive director's performance. It seemed to me that we were putting the cart before the horse. Clearly having the Governance Subcommittee start working on a list of performance expectations and then having the commission approve such a list is also extremely time-consuming and there's no way to get that done and get that initiated and get the executive director working to meet those expectations before the end of the year. So, doing an executive director review at this point seemed to me to be quite premature.

Once we move to the executive branch, we will be required to do a executive director performance evaluation once a year using the template that is set out in the proposal that had been before the commission, but it will not have to be done until a year from now. That will give us time between now and then to articulate performance expectations and do whatever kinds of non-required reviews we feel that we should do in the interim. And so my suggestion... One more thing, we've had trouble on the Governance Subcommittee getting a quorum of subcommittee members to attend our subcommittee meetings. And what that means is we often don't have a very rigorous discussion even at the subcommittee level. So, the other thing I would ask for as we're moving forward on dealing with executive director performance requirements is for people to join the subcommittee who are willing to work on this and let us have a robust kind of discussion on these sorts of issues before we actually bring them to the commission as a whole so that there's more than just one or two people weighing in on this. So, that's my update, and I'm happy to answer any questions or respond to any concerns.

Chair Jennifer Nash: Does anyone have any questions or concerns? Commissioner Harris.

Robert Harris: Thank you. Thanks. Excuse me. I'm on that subcommittee as well, and I totally 100% agree with Commissioner Mandiberg on this. It's a lot of work. She's put in a ton of work and a ton of hours on this. Staffing is important. And as we looked at the template of best practices and how to put this together, and then we looked at some of the survey results that we got back in the past, it became clear that we need probably better data, better input, better survey before we can even proceed, and how are we going to approach this as far as feedback to get actually valuable data, not just sort of information, which may or may not be a good data set or representative. And it's a lot of work, and there is going to be a major change in three or four months now anyway, and we don't have the KPMs at this point. And I think this is the fairest, most efficient, and effective probably for the agency way to proceed is just we're not kicking the can down the road, we're waiting to a more appropriate time to use the information and the valuable structure that Commissioner Mandiberg has started and then plug that in and actually get a better outcome next year. So, this isn't really a matter of the commission or the agency not doing its homework. It's a matter of timing and making sure we get this one right.

Susan Mandiberg: Thank you, Rob. And I would say that Rob has been stalwart [Laughter] attending subcommittee meetings. So, he definitely has good insight into how it's worked.

Chair Jennifer Nash: Commissioner Smith.

Addie Smith: I just wanted to be the third also on the subcommittee – although slightly less stalwart with my summer travel schedule, so I apologize – to say that I think that this is a really reasonable and thoughtful way to proceed.

Chair Jennifer Nash: Thank you, and I agree. I mean, I talked with Vice Chair Mandiberg about this earlier in the week and her thoughts about that and thought it was a good idea. And I think circling back to the comments we heard at the very beginning about feelings from providers that they weren't included in the AP workgroup. And the commission, the subcommittee in particular's selection criteria for who or the types of people, not the individual providers or individual people, who would be providing feedback was... I think the comments, they go together very well is what I'm trying to say. I mean, and it really makes sense to take a broader view of this and a longer view and determine whether or not we have the right people from outside entities also who are participating in the evaluation process. So, it makes sense if we can't get this done before the end of the year to wait and do this in 2025.

And I will say before we move on to the next item, this is a good opportunity for me to talk about how I'm going to be sending an email out to all of you, it's in the drafting stages, about the commission's work and subcommittee work. There are a small number of people who are doing the lion's share of the work. And when you all applied to be on the commission, you, the little caveat at the beginning was this is a working commission, and you need to want to do the work and be available to do the work. And so we have a lot of work to do and it's a volunteer group and we need to all be able to participate as much as we can or take a good hard look and say, "We can't participate as much as we'd want to and what does that mean for our service on the commission?" So, you'll be hearing from me about that saying, "Please help. We have things we need to do in the coming weeks." Okay, moving on next to the best practices for boards and commissions, which also goes nicely into the comments I just made.  
[Laughter]

Susan Mandiberg: Okay, so there's two parts to this presentation. I'm just going to talk about one of the five KPMs, the one that has to do with the evaluation of the commission itself, and then Kim Freeman will talk about how the agency proposes to report on all of the five KPMs. So, the one that applies to the commission itself was sent out, the survey was sent out to all 13 commissioners, 12 responded, and it was sent out also to 14 staff. I did not choose the staff. I was not the one who sent out the survey. That was done by the agency. And the staff who were included were staff people who have interacted directly with the commission, including appearing before the commission at our meetings. And so the survey was sent out to 14 staff and 9 staff responded to most of the questions. The reports that we got back involved both the numeric answers to the survey,

which all of you took so you're familiar with the survey, all but one, and also included the textual responses.

We got the information in separate documents for commission response and for staff response. And the Governance Subcommittee went through them, and it resulted in the document that you all received in your materials, where we went through and for each of the questions, we reported on the number of people strongly agreeing, agreeing, having no opinion, disagreeing, or strongly disagreeing. You got the report in both the numbers of people and the percentage. The percentage is the percentage of people responding to that question. So, the percentages are a little misleading because they tend to inflate, I think, the impact. So, I would suggest looking at the numbers more than the percentages. Your document also includes all of the textual responses that were received. And believe me, reading this document is much easier than reading the reports that we got from SurveyMonkey. And the document then includes observations that are made by the Governance Subcommittee and takeaways that are made by the Governance Subcommittee.

So, the numeric responses are the ones that you will hear from Ms. Freeman that go into the report, but the Governance Subcommittee thought that what was really valuable for us about this survey was comparing the staff and commission responses, looking at the relatively few textual responses that we got, and thinking about how we could use the information in the survey to take a good look at ourselves as a commission and figure out what we need to do to improve our performance as a commission and improve the ways that we are serving stakeholders, serving the agency, improve the ways that we're doing overviews of the agency and making suggestions to them and ultimately serving the needs of public defense situation in Oregon.

So, I could summarize real quickly what I think are the most important takeaways for us to look at internally. You can certainly read through the document and look at those. But what I would like to suggest is that one of the tasks of the Governance Subcommittee in the next several months is to look closely at these takeaways or any other input that commissioners want to give us, if you have time to read through the document that summarizes the survey, and start coming up with suggestions to make to the commission possibly as action items for ways that we can start doing things differently and better to be more effective as a commission. So, if people want me to, I'll go through what I think are the most important takeaways, or we can just discuss whether having the subcommittee look at these and come up with suggestions is a way that the commission wants us to use our time.

Chair Jennifer Nash: Questions or comments by commissioners? I mean, I will say that I really appreciate the document you put together that summarized the survey. I



thought it was not just very helpful, but also I really appreciated you saying, "This is a takeaway you could have from this. This is one possible explanation." You made me look at the data in a way that was different than I would have just at first glance looked at it, and I really appreciate the different hypotheses that were posed as to why the data may read the way it does. And I thought that was very, very helpful. And so thank you for your very hard work on that. And I think to your point earlier about the executive director evaluation, how can we evaluate an executive director if we don't have performance expectations? That was kind of the biggest takeaway for me about is the executive director meeting expectations. Well, I don't know. What are they? So, I think that's very helpful for our work. And certainly, I think the appropriate place to do that work is the governance committee. I don't know what other people's thoughts are about that, if anyone else has any ideas or thoughts or input, anyone.

Susan Mandiberg: Is there anything more important? I know we're scheduled to do an evaluation of our bylaws, and I would say that if anyone has suggestions for whether the bylaws should be amended or tweaked in any way, please get those to us. But other than that, if anyone thinks there's something more important for the Governance Subcommittee to be doing, we should know that. Otherwise, I suspect that what we will be doing is starting to look at the survey results more closely and work on how we can use them to improve.

Chair Jennifer Nash: Jen?

Jennifer Parrish Taylor: The one thing I wanted to flag, I think especially for commissioners that have been here longer, is I know that one of the comments I'd made when I came on as a commissioner was we need to set expectations. And so I think we need to get clarity as a commission what those expectations are. And I think that's what we're trying to do in the governance committee. But I think it would be helpful to have more tenured commissioners really think about that, knowing kind of what we came into and what we're trying to avoid. Because at the end of this, I don't want the executive director to go through a process blindsided by what she's being evaluated on because we haven't communicated what those expectations are. And so also I think it's important to think about what those expectations are in partnership with what are we trying to achieve overall and come up with some markers and be clear about that and have a conversation about that. And I think we were trying to get at that with the strategic plan. So, are there metrics that we can pull from the strategic plan that can be applied as parameters of assessment?

Susan Mandiberg: Thank you, that's helpful.

Chair Jennifer Nash: Very much so. Director Kampfe.

Jessica Kampfe: Thank you very much. I just want to capitalize on this opportunity to let the commissioners know that I sent you all a link to a survey today that I'd like for you all to take around our strategic plan. So, within the agency, we've been doing work on mission, vision, values, and we are asking for the commission's input on that work, and you all will have received a link to a survey from me this morning that is due by September 24th. So, if you could prioritize that, it would be really helpful to us. Thank you.

Chair Jennifer Nash: I saw that, thank you very much. Okay, so Commissioner Mandiberg, do you have more?

Susan Mandiberg: Nope, I'm done, thank you.

Chair Jennifer Nash: Okay, Ms. Freeman.

Kim Freeman: Thank you, Chair Nash, Vice Chair Mandiberg, commission members, Director Kampfe. Again, I'm Kim Freeman. I'm the CAP manager, Compliance, Audit, and Performance. And I'm here today to share with you our key performance measures. The formal name of the document is actually the Annual Performance Progress Report, also known as the APPR. Again, lots of acronyms, but I'm hopefully ensuring that I spell those out for you. In the commission packet today, you received a memo just briefly explaining the KPMs. Also, the actual KPM document that we enter into, I'm going to call it the KPM system. So, it's a set system that we enter information in, which then generates the report that you have in your packet. And then my goal today is also to share with you some very key specific information that we received, most importantly, from the customer service survey, but just to give some high overviews of our KPMs, again, our key performance measures, and some highlights that I believe speak to what's been happening within the agency with our KPMs.

Chair Jennifer Nash: Ms. Freeman, if I could interrupt you for just a second.

Kim Freeman: Yes.

Chair Jennifer Nash: I think it might be helpful for commissioners to understand, I know you've got a link, but still, for commissioners to understand where these KPMs came from, why we're measuring what we're measuring, how it relates to the work that we're doing now for context before you talk about what the results of the survey are.

Kim Freeman: Thank you, Chair. And I do have that in my slides. So, Mara, please. So, again, I just want to talk about our KPMs, that we had some stakeholder engagement this time. Those are kind of my key takeaways, but to address Chair Nash's comments is we currently have five KPMs. Next slide, Mara. So, I'll back up. So,

we have this report, the KPM or the Annual Performance Report. It is due October 1st. Every state agency is required to complete this document. It's something that, again, is required. When I joined the agency last year in the end of July, this was probably one of my first things handed to me, going, "Hey, the KPM's due in a couple months." And I'm like, "Oh," so I was finding old reports and looking at what we measure. So, we've made significant progress since then. I have included the link that you can go back and look at all of our previous KPMs, and I went back as far as 2016 to look at the agency's key performance measures. Next slide, Mara.

So, we currently have these five key performance measures. One from our Appellate Division, and it's measuring the number of days of a file opening to the brief. Customer service, again, we want to rate and look at how we're doing customer service from this agency, and that means everyone from our accounts payable team, our PAE team, our Trial Division, our trial support and development team, the policy team, the data team, all the way up to our executive director. You heard a little bit from Vice Chair Mandiberg on our best practices for boards and commissions. And then we have trial level representation. This one measures the number of our attorneys under contract that they have obtained at least 12 hours per year of continuing legal education in the area of law that they practice. And then our last one is the Parent Child Representation Program, also known as PCR. And this is, again, around how much time they're spending meeting with their court-appointed clients, either in cases that represents the parent or the child.

These five KPMs have been in existence since 2016. I wasn't here in 2016 when these were decided, but this is what we've been measuring faithfully since 2016, some with good results, some not with the best results. So, again, we have these. These are what we've been measuring. I did put in my memo that there is a formal process. If we would want to change any of these KPMs with the exception of the customer service survey, that is something that is required in every key performance measure document, we would have a formal process that we would go to seek legislative approval before we would change any of these KPMs. Which that potentially could happen with our strategic plan review, directions from the commission, other conversations around what other measures should the agency be reviewing. So, I just want to call it out that there is a formal process that we would go through, obviously with commission approval, but this is where we stand today as of 2016. And I see Commissioner Taylor has her hand up.

Jennifer Parrish Taylor: Knowing kind of when these were formalized because I also was not here, and that we've gone through a pandemic, I'm wondering to what extent do we want to create or if the information already exists around kind of the impacts of something like that to the work and how the work has shifted, if there are

things that are done differently or slightly more nuanced that need to be accounted for, to speak to, just performance because we went through a horrific pandemic and are still dealing with that in some of our communities. And just not hoping it happens again, but preparing for if this were potentially to happen again, how do we be proactive about having something that speaks to that experience?

Female: Thank you.

Chair Jennifer Nash: Commissioner Mandiberg.

Susan Mandiberg: So, you say that we could go through the process to change most of the KPMs. Is there a process for changing the way the questions are asked in an existing KPM? Because one of the things that I thought looking at the boards and commissions one was that some of the questions were ambiguous and didn't give much guidance to people answering the survey. So, I just wondered if there was a way to at least give some input about the questions, not the KPM itself.

Chair Jennifer Nash: Yeah, I've long thought that. I mean, there are professional people in the world whose sole job it is to write poll questions to ensure that you elicit the information that you're actually trying to seek, the data that you're trying to seek. And some of the surveys that I've received over the years, I would say in the last year, it's been 1000% better, but historically over the time period that I've received survey questions as a contractor because I'm on the contractor list – I'm not a contractor now, but I'm still on the list – the questions are not really well-formed. Sometimes I think, what are you actually trying to learn here? So, that's actually a very good question. I don't know who drafts the questions or if the questions are set to elicit the information that were... I mean, anyway, so Ms. Freeman, maybe you can answer that question.

Kim Freeman: I know specifically on the best practice for boards and commissions, we had a document from another agency that uses this particular document that had those questions. I would say we're probably not locked into those questions since this is the first time in the last three years that we actually completed a survey. What I would say, and I would assume that our data team, both Harry and Maddie would say that if by changing questions, right, we would want to probably change them early so we can measure over time, right? Every year we wouldn't want to keep changing questions that we ask because we can't measure improvement or decrease of improvement, right? We couldn't measure that if we were to change questions every year. But I think because this is, I'm going to call it a brand-new process, even though we've done KPMs since 2016, we are really looking at it with fresh eyes this year in my opinion, that we could have those conversations around what questions look like and what really are we trying to measure.

Susan Mandiberg: So, if I understand you correctly, the categories of key performance measures come from the Legislature, but our agency made up the questions? Because I didn't understand that that was the case. I thought that the Legislature or some government agency other than us had made up the questions. But who made up the questions in the survey that went out on the boards and commissions one?

Kim Freeman: That, my understanding, that was a document that we used from another agency. And just let me... I'm going to look it up right now because right off the top of my head, it wasn't one that I want to say without making sure I'm correct. We had that from another...

Susan Mandiberg: Okay, it doesn't matter.

[Crosstalk 01:54:15]

Kim Freeman: ...another agency. So, we could change those, Commissioner Mandiberg.

Susan Mandiberg: And the customer service, that was also a survey?

Kim Freeman: The customer survey, yes, was a survey that was sent out, but those questions are the same as they have been since 2016.

Susan Mandiberg: Uh-huh, okay. I don't know if others feel the same way about the boards and commissions survey, but I think those questions could be improved, and maybe there's a way to work on that for the next time we do it. Just my sense.

Chair Jennifer Nash: Yeah, and I agree. But I think even a broader question is, and I see Representative Evans, he can chime in here, and Senator Prozanski. I mean, I think the bigger issue is the Legislature wants to know how the agency's performing, and we need to decide what we're really trying to measure. So, if what we're trying to measure is whether or not clients are being provided robust representation, is the question really are you having 12 hours of CLE credit a contract period? Or is the question how many cases are requesting the use of investigators or expert witnesses or – I'm just making this up off the top of my head – but some other measure, right?

So, I think that's the starting point before we get to what the actual questions are, is what information is the Legislature seeking specifically? And can we determine whether or not there are better questions to ask to elicit that information and then propose those changes? That's kind of my thought. And of course, that's a larger commission discussion and probably part of our overall strategic planning about reviewing those performance measures at some

period. Because to Ms. Freeman's point, it doesn't make sense to keep changing them every year because we aren't going to get good data year over year. But Representative Evans, please.

Paul Evans: So, at the risk of being wrong, which I frequently can be, as Dan Rather once said, frequently in error, but never in doubt, I think you're right, that the questions are going to be changing though, and that's part of the nature of this. In that KPMs are generally associated with steady state operations for sustainability and efficiencies. The questions the Legislature is most concerned about right now is one, resolving the immediate crisis that has us on the dock with the federal court. Two, managing or at least having an attempt to manage the resource challenges that we know are a short-term and long-term problem and what role the agency can play in either incentivizing or not. Three, what are the kinds of things that are most important to getting the agency into a position where it can succeed once it's an executive agency? I suspect a year or so after it's an executive agency, the KPMs will absolutely be reviewed from more of a steady state bureaucracy lens. So, in one way, the questions have to be somewhat targeted and certainly very specific to the agency because it is in transition.

That said, I hope we don't build a good question-asking apparatus in the short-term because we're going to be needing to refit that over the long-term. In the short-term, we really just need a snapshot of are we meeting the goals on, for example, fewer people incarcerated that haven't been arraigned? How fast are we getting payments out? The discussion earlier today about the process and the number of people involved is helpful to that. If that's the case though, do we need to bring in additional folks like we did over at Employment Department during this phase to get the agency up on its feet with greater trust from the stakeholders so you actually have a chance to succeed? Those kinds of questions and those kinds of what do you need from here to December to get you in a better position I think are the priorities that at least myself and I think Senator Sollman want to know.

Chair Jennifer Nash: That's helpful. Thank you. Does anyone else have any questions or comments? All right, Ms. Freeman, we sort of hijacked your presentation. Go ahead.

Kim Freeman: Totally fine, thank you. All right. Next slide, Mara, please. I want to jump into stakeholder engagement. I want to highlight that again, for the first time in three years, we actually conducted stakeholder engagement on three different areas. One, our customer service survey, the best practice for boards and commissions, and our trial level representation. And I'm going to go into a little more detail, but I think it's important that we acknowledge one, the time for staff, and one, the data team to compile all the results, but also most importantly, for the people that participated in the survey. Because Chair Nash,

you've said you received a lot of surveys over the last year, and I know when you receive them in your inbox, it's kind of like, "Oh, another survey." And so it's important to acknowledge that we've sent them out, but it's also important to acknowledge from our vendors, providers, community, that they actually responded. Some of them, did we get the response rate that we wanted? No. Are the results what we wanted? No, but let's celebrate the win that we actually did a survey that we haven't done in the last three years.

So, just a little more detail on that. The customer service survey, again, went out through SurveyMonkey, which Commissioner Mandiberg alluded to, is not the most user-friendly tool on the back end, what I call our analyzing end, but it's the tool that we have used over the last several years. We will be working with our IT team to create maybe some different tools in the future. But the survey went out to a little over 1,700 people via email. We had 184 responses, which again, if you look at that, isn't the best rate, but overall we had an 11% response rate. So, depending on the type of survey – email, mail, a phone call – response rates differ anywhere between 5 and 30%. So, it really kind of just depends. What I can say is the majority of the people that responded to our surveys did it within the first three days of receiving the survey. So, I think that kind of is a telling picture that you get a survey, you're either going to do it right away when you get it, or it gets lost in your inbox. So, I think there's just a little bit of that too. Next slide, Mara.

And then our best practices, which Vice Chair Mandiberg has already discussed, it went out to our commission members and our staff members. She's highlighted that information. Our trial level representation survey went out to 784 contract attorneys. And again, this is only contract attorneys, and 266 responded or about a 35% response rate, that they did complete 12 hours of continuing at legal education in the last fiscal year from July 1 of 2023 to June 30, 2024. Now, just to call out some confusion in that – because this is a KPM requirement, our contract to our contract attorneys, the language is a little bit different. It's 12 hours over the course of a two-year time frame. So, that did cause some confusion to some of our contract attorneys. So, I just want to call that out and thank you for them to working through this. Again, it's a KPM measurement, not a contract measurement. This is only specifically to our KPM.

Now, I want to just jump into our customer service survey results because I think this is telling of kind of where we were. And I know Maddie Fernando, and she has a new name. So, Maddie, if I butchered that name, I'm really sorry, but she's one of our senior data research analysts along with Harry, but she took the information from our SurveyMonkey results and actually utilized the data and put it in a way that is a tool that is more manageable for the agency to look at internally, kind of like, Commissioner Mandiberg, what you get out of SurveyMonkey and what she put together is a much better tool for the

commission to use. So, a shout out to Maddie, and I've asked her to join in case there are some specific data questions that I cannot totally answer or address for you. Again, it went out to 1,700, a little over 1,700 people, to all of our active public defense contract and hourly attorneys, all our contract administrators, interpreter, investigator, psychiatric experts since January of 2023. So, we tried to go back far enough to get a good representation, again for information back. Again, only 11% response rate, the breakdown here were 38% are vendors, 32% were contract attorneys, and then how long they've been in their current role. So, next slide, Mara.

This is just a breakdown, and I do want to highlight that this time for the first year that we actually added two questions. One was, what's your current role? So, we could identify who's taking the survey. And then, how long have you been in your current role? Because that, I think, is also critical because we know we have a lot of new providers, attorneys, and we also know we have some long-term providers, attorneys, interpreters who worked with OPDC for many, many years. So, you can kind of just see the breakdown of people in their current roles and how they identified where they are, how long they've been in their current roles. Next slide. How do you rate your ability? So, the next slides I'm going to go over are the questions that are listed in the customer service survey. So, how do you rate your ability for OPDC staff to answer your questions correctly the first time?

One thing I didn't mention is that the survey went out in June. And if you all remember, which I'm sure you do, that in June, we were severely behind in our PAE, our pre-authorized expense authorizations and approvals. And also, we were behind in our accounts payable invoices. That's not to make an excuse of how these results came in, but it's just to acknowledge at the time the survey went out, the agency was behind in both of those entities. Which some of those comments that we received are around how the agency is behind in processing payments and making sure that we can approve all the pre-authorized expense requests that are coming in. So, again, we had some good response here, 68% of the respondents said that we were fair or good in responding correctly the first time. So, kudos to the staff for that information. Nineteen percent said poor. So, we have some work to do, definitely there. Next slide, Mara.

This one's around accessibility and distribution of information. We were rated poor here, and we've heard several times that our website isn't user-friendly. It's hard to find information. We're taking that to heart and we're working with Cody. And I know most of you know Cody from his assistance with the commission. He has some really great ideas. So, we'll be looking to work with Cody and others around looking how we can better disseminate information on our website. Next slide, Mara. This one is, how do you rate the helpfulness of our staff? So, we had 20% said we were excellent, and 32% good, but overall we



had 13% who said we were poor. So, vendors rated us high as excellent, so that's great. But our contract attorneys only rated us 8% as excellent. Again, we have some work to do. Next slide, Mara.

This one is just around expertise. So, a pretty good rating of excellent or good, poor. I think the overall trend is we have some excellent, we have some good, and we have some poor. So, we definitely have room for improvement. Next slide, Mara. This one has a lot on it, so I apologize. And I'm giving credit to Maddie because she did such great work on putting this all together. But this is how do you rate the timeliness of the service provided and was not rated well. We were not rated well as our timeliness for service, 60% said that our services...rated us as poor. That's a pretty high number. So, no, that's not a good number, but we can work on that.

What was interesting is the next little paragraph where it says respondents that have been in their current roles zero to five years rated as higher in timeliness of service versus ones who'd been there for a longer timeframe. And I think, again, that speaks to we have a lot of new providers, and we have a lot of experienced providers who've been with us many years, who've seen our ups and downs. And again, room for improvement. Next slide, Mara. Again, overall quality here. We were at 18% for good, 46% as poor. And again, this is based on our overall quality and in their current role. So, we kind of see those same trends happening if they were a newer or versus a longer-term vendor with us. Next slide, Mara.

And one of the last questions on this survey can be a little confusing. And again, it's what we've had to work with. So, I just want to acknowledge that you get through, you're able to answer all the questions, but then they ask you like, "Why did you rate us X on the question above?" So, that question can be kind of, again, what are we after and what is there? So, basically out of the 84 people that provided us comments, 46% of those respondents answered poor to the overall quality of service provided by OPDC. And so again, more on the lower end, they broke it out here a little bit around payments, invoicing, specifically mentioning PAE. So, those were some of the themes that were throughout some of the comments. Next slide.

I do want to provide just some word clouds here. I think it just kind of states to what was pulled out from some of the specific comments. So, the first one is word cloud of all comments, right? And some things in there were good and excellent comments. They called out specific staff. So, they've named staff by name, which I always think is really critical because that means whomever the staff person was really connected with the person that they were helping because they remember their name. And maybe they work with them on a very regular basis, but it's nice to be recognized for having your name there. Maddie

did a word cloud for good and excellent comments. Next slide, Mara, is all the poor comments, which again, is equally as important to look at.

So, we're not just focusing on the good, but we're also looking at the poor comments. And poor comments were around...the themes are PAE delays, so preauthorized expense delays, account payable processing delays, lack of communication, and no response to emails or telephone calls. And I believe that is my last slide. I know I went quick, but what I also want to acknowledge is that all of the staff that participated in helping me coordinate the KPM, especially the customer service survey to Maddie from the data team for compiling everything, to the vendors and our providers for providing responses. The kind of our next steps with this is the specific comments that we received will be reviewed with the executive team, and we will be taking those comments and looking at ways to definitely improve our service and our performance. And with that, I'm happy to answer any additional questions.

Chair Jennifer Nash: I have a question more procedural. I noticed that you're asking for approval of the report, to send to the Legislature, but it's actually not listed as an action item. So, do you need commissioned approval in terms of voting or what? Because we didn't notice it as an action item, so I'm not sure we can vote on it. So, I don't know maybe where that puts us. Maybe Director Kampfe can answer that.

Jessica Kampfe: I did not realize that it wasn't listed as an action item. So, that's an error on my part for not putting it in front of you all as an action item. We do need to send it to the Legislature. The due date is early October. I think it would be helpful if we even just had a sense from the commission about how you would vote on it so that we have direction, even if it's not an official vote.

Chair Jennifer Nash: That's helpful. And I'm sorry, I didn't catch that either until yesterday and it was... I didn't say anything about it, so I'm sorry about that too. I should have noticed. Is there any feedback, any questions, any concerns from commissioners about the information contained in the report or the information that's been presented today? Commissioner Buckley.

Peter Buckley: Just I'd like to give the agency the sense of encouragement to make sure the Legislature receives this information. It's not great information, but part of the deal is we have to be transparent, and we have to be consistent with our communication.

Chair Jennifer Nash: Thank you. Commissioner Mandiberg.

Susan Mandiberg: I think we have to send in the information that we have. I mean, it's accurate. Seems like the assessment was correctly done. I'm concerned about the content

of the feedback. I think that we have a lot of work to do, and I think the agency has a lot of work to do, and I think we need to get on it and do it. And I understand that the Legislature's given us a number of difficult tasks to work on simultaneously. Solving the unrepresented persons problem, doing all the things we need to do to transition to the executive branch, figuring out how to operate as a brand-new commission and improving the relationship between the commission and the agency are just three of the tasks that we have to work on simultaneously. So, I think it's a challenge, but I think that meeting the criticisms that show up in these surveys is a super important thing that we have to work on simultaneously and prioritize. Because I don't think we'll be able to accomplish the other tasks well unless we correct these problems that have come up. So, those are my concerns.

Chair Jennifer Nash: Thank you. Also, we're having to do a complete service delivery model shift also on top of everything else, but I agree this information needs to go to the Legislature. I think similar to Commissioner Mandiberg's feedback, the information contained in the report about factors affecting survey responses I think is very helpful to provide some context to the Legislature about what has been happening, but certainly we have a lot of room for improvement. And I will just say, I mean, I've said this publicly, I've said this privately in meetings to the agency, I mean, the feedback about not receiving feedback from staff is very... I hear that all the time. And I've been in that similar situation, where you send an email, and it just goes into the abyss, and nobody responds.

I mean, I'm one of those people, I send a response to every single email I get, even if it's a, "I can't respond to you right now, but I'll get back to you," email. Just because people want to know that they're not shouting into the void. And I think there's, with some parts of the agency, there's a cultural shift that needs to be made where they need to be more responsive. And I think that the survey results here really bear that out. And so hopefully... I know that that's something that the agency has been working on. The executive team's been working on shifting that culture and I appreciate all their efforts, and I think that that's something that needs to be ongoing. Commissioner Smith.

Addie Smith: I also want to sort of echo Peter's sentiments that continuing to be transparent even when the results are difficult to be transparent is really important, and I think in building the trust that we're working on rebuilding. I just wanted to the extent that it's possible based on the timelines I'm hearing, offer the services of the Legislative Subcommittee that has a meeting coming up on October 4th, which I think is going to be a tight turnaround, but to the extent that a review and sort of approval there or a closer look there when there's more time is helpful, I just wanted to offer that that's sort of our stated role and we're happy to continue diving deep into these big reports.

Chair Jennifer Nash: Yeah, I know that this came up kind of quickly, but just for sort of future, the idea is that all reports that need to go to the Legislature first should go to the Legislative Subcommittee for review, and then the Legislative Subcommittee with the agency can present them to the commission for full approval. That's a better way for the agency to get feedback and have more substantive feedback than in a big public meeting right before the report's due. All right. Thank you very much for all of your hard work. And we really, really appreciate it and appreciate the work that was done in compiling the survey results and presenting it to us as well.

Jessica Kampfe: Chair Nash, without doing a motion because it's not an action item, could we at least do a roll call for commissioners as to whether or not we should send the report to the Legislature at this time to give the agency some direction even though it's not an action item?

Chair Jennifer Nash: Well, no, I don't think we should do that because I think that's still sort of an action item matter if we do a roll call. So, why don't we do it this way? Are there any commissioners who object to sending the report as it is to the Legislature? All right. The answer is no, there are no objections. So, I would say send it back to them.

Jessica Kampfe: Yeah.

Chair Jennifer Nash: Yeah, that's I think a better way to do that. All right. Thank you. All right, moving on to the next item, which we'll try to do quickly so our break stays intact. And that is the public... This is the second time this has come before us. We actually had a briefing on this last month regarding the public loan student forgiveness plan. So, Director Kampfe.

Jessica Kampfe: Thank you. This is before you all as an action item. Today, we are asking that the commission approve the policy for the public student loan forgiveness. I just want to give you all some background information on that and then I would ask for a vote. Should the commission approve this public service loan forgiveness policy, the policy would go into effect on October 1st of 2024. We are on schedule to have processes in place to be able to accept applications from contractors and to have the internal review process set up. Applications can only be submitted via e-fax and that is due to private personal information. Our e-fax is the only source for being able to submit private personal information in a secure method. The e-fax will be the method of sending and receiving documents from the applicant and the Oregon Public Defense Commission.

A secure Teams channel has been set up for the public service loan forgiveness as a workspace for us to create applicant folders, review applications, have a tracker to track the statuses, and for public service loan forgiveness staff to

communicate. Only the staff that's working on this program would have access to the Teams channel. Our internal staff have a process manual for all of the steps and process for how to review an application once one's submitted and once a determination is made, how to communicate back to the applicant based on that decision. Our approval letters will be signed and sent to the applicant via that e-fax. Denial letters, if they're not approved, will be sent with instructions to appeal if the contractor does not agree with the outcome. If the application's missing information, documentation information request will be sent through e-fax. If the applicant's not responsive within 30 days, they'll be withdrawn with an opportunity to resubmit, and there will be a two-week follow-up to the applicant prior to the 30 days in case they missed that initial request.

We will have available on our website the policy, the fillable public service loan forgiveness, certification for contractors, instructions for how to submit the application and complete the required documents for review. Our manual will have a reference to that policy and the eligibility requirements, and the e-fax number will also be up on the website. We are expecting our turnaround time for review to be 30 days and that is stated in the [Distortion 02:23:30] policy. If the commissioners have questions, I'm happy to try to field them. Otherwise, we are asking the commission to vote on approving this policy so that we can implement it starting in October.

Chair Jennifer Nash: Are there any questions or concerns that any commissioners have? All right, I'll entertain a motion to approve the policy as presented to us.

Susan Mandiberg: So moved.

Chair Jennifer Nash: And a second?

Addie Smith: I'll second.

Chair Jennifer Nash: Okay, roll call vote.

Addie Smith: Commissioner Smith? Yes. Commissioner Nash?

Chair Jennifer Nash: Yes.

Addie Smith: Commissioner Parrish Taylor?

Jennifer Parrish Taylor: Yes.

Addie Smith: Commissioner Buckley?

Peter Buckley: Yes.

Addie Smith: Commissioner Selander?

Bob Selander: Yes.

Addie Smith: Commissioner Harris?

Robert Harris: Yes.

Addie Smith: Commissioner Mandiberg?

Susan Mandiberg: Yes.

Addie Smith: Commissioner Lininger?

Tom Lininger: Yes.

Addie Smith: Thank you, motion passed.

Chair Jennifer Nash: All right, thank you. And I need to apologize to people about the break situation. I didn't realize, it didn't register anyway this morning, that we have a guest at 11:30. So, I want to ask people what they would like to do. Do we want to take a five-minute break, or do we want to have our guests give their presentation and then take a break that's longer?

Susan Mandiberg: Yes.

Chair Jennifer Nash: Okay.

Jennifer Parrish Taylor: The second one.

Chair Jennifer Nash: And it looks like we've got our guest here. So, why don't we start?

Jay McAlpin: And as far as I'm concerned, if you need to take a break, I would never hold anyone away from a break when they've been in a meeting all day, so.

Chair Jennifer Nash: Would you be okay if we started yours at 11:35 and went to...?

Jay McAlpin: I've been working on other things while I've been listening to you. I can work on some things for...

[Crosstalk 02:25:17]

Chair Jennifer Nash: Thank you very much for your accommodation. So, let's do that. Let's take a break now. We'll take a 10-minute break and we'll be back at 11:35.

Paul Evans: So, Chair Nash?

Chair Jennifer Nash: Yes, sir.

Paul Evans: My day job calls me to leave in about 15 minutes.

Chair Jennifer Nash: Okay.

Paul Evans: So, I got to go then.

Chair Jennifer Nash: Thank you. Well, thanks for letting me know and thanks for being here. We really appreciate it.

Paul Evans: Good conversation. Thank you.

Chair Jennifer Nash: And I'll see you Friday.

Paul Evans: Yep.

Chair Jennifer Nash: All right. I believe we are back from our break. It is 11:35 and we are going to have a briefing from Lane County presiding judge, Judge McAlpin, about the situation in Lane County.

Jay McAlpin: Good morning. Thank you for the invitation. My name is Jay McAlpin. I'm the presiding judge of the Second Judicial District, more commonly known as the Lane County Circuit Court. We are 15 judges and about a hundred staff members. Our district is about 4,500 square miles, roughly rectangular, with people living on the Pacific Coast and then people living in the foothills of the Cascade Mountain Range, with a kind of mid-size urban area in the middle. We have about 30,000 filings total per year, we're back up to pre-COVID levels on filings, and criminal filings dipped during COVID and are working their way back up, potentially getting closer to pre-COVID levels. We had 2,400 total criminal filings last year and this year so far we're at 2,600. So, we're already surpassed our total for last year so far this year.

Our criminal justice and criminal defense partners are the Lane County District Attorney's Office with about 24 attorneys, Public Defender Services of Lane County with about 33 attorneys, a consortium of about 9 attorneys, and then a juvenile consortium of 7 to 8 attorneys. My understanding of why I'm here is to talk a little bit about what the unrepresented crisis looks like in Lane County and then what our case management system is for criminal law. So, if Crystal would

move to the next slide, I want to tell you that our current crisis and our crisis throughout the crisis has really been reduced or has been limited to a small number of unrepresented defendants. We have not had the huge numbers that similar sized counties or districts have had around the state. We currently have nobody in custody as of yesterday who doesn't have an attorney. We've had one Betschart release in the year since Judge McShane issued his order, and frankly we had that release because that case came in while I was on my one vacation for the year. And we learned that we can't have a system that's so reliant on individuals, and we've worked to kind of spread that work around again, so we don't have that problem again.

My personal view of why we haven't had the same crisis is number one that Lane County's public defense providers have managed their workloads and the resources the Legislature gave them to maximize representation. They've spread their availability throughout the entire year. They have coordinated between the public defender's office and the consortium to relieve each other when they were under stress and getting too many cases, and they've communicated with the court when things were coming up. And so we've had little bits of small numbers of unrepresented people that we've been able to manage as a community, as opposed to huge numbers that have pushed us further and further down.

One thing that we had no control over was that coming out of the pandemic, the Lane County District Attorney's Office was understaffed and had for a while a no-file list. And so we didn't have the same number of filings that we'd had pre-pandemic, and that certainly helped us absorb the crisis. They're back now to their pre-COVID levels and filings have increased. As I said, we have more filings so far this year than we had all of last year, and particularly misdemeanor filings have increased 350% over last year. And so there is more work and that's something that we're keeping an eye on to make sure that we don't get in over our heads.

And then I think another piece that I can talk about is that Lane County's criminal case management system is simple and effective. We provide three certain dates for all criminal cases – an arraignment date, a pre-trial conference date, and a trial date. Any additional appearances are either at the request or necessitated by the parties. And so the court tries to minimize the number of times we touch each file but maximize the value of each contact. If we can move to the next slide, I can show that a little bit better.

So, all criminal cases start at arraignment where we appoint attorneys for people who are qualified and give them a follow-up court date. For most criminal cases, that follow-up court date's what we call a 35-day call. It is, as it sounds like, 35 days after arraignment. And we're back to doing that. We'd kind



of expanded it that time period during COVID and then after COVID, but we're back trying to get things done within that first 35 days. And that 35-day call is heard every Monday, Wednesday, and Thursday at 2:30. So, every criminal case that's not diversion eligible gets that date.

The other exception is murder cases, but that statistically doesn't have an impact. There are some cases where the DA's office makes a diversion offer at arraignment that's set back on the arraignment docket in two weeks to either accept or reject that offer. And if it's accepted, the party enters into diversion and sentencing set back on the arraignment docket in six months. If someone is diversion eligible and the DA's office lets the court know at arraignment whether someone's diversion eligible or not, it gets sent to the Dewey Diversion Docket, which is every Friday, about 30 days after arraignment.

Going back to the usual, the normative matter would be a 35-day call. We're a master calendar system, which makes us relatively unique in Oregon. Most courts are individual docketing where a case is filed, and it gets assigned to an individual judge. In Lane County, we have always been a master calendar system. So, cases are not assigned to individual judges. They're assigned to a master calendar managed by the presiding judge. And so that's my job. And if it gets to the date of trial, neither the attorneys nor the judges know which judge is going to get which case. I dole and assign the case, the trials out based on availability and what the case needs. And it is sent to the judge for the first time on the day of trial. And that's true for domestic relations, civil or criminal cases.

The downside of that, of course, is that our judges are not as intimately familiar with every aspect of every case and don't have the same amount of time to dig into the details of every case. The benefit is is that we can be more efficient with our resources. We very rarely have a situation in which a judge is not available to try a case. Every once in a while it happens, but it can be measured on or counted on a hand per year. My experience as a civil attorney appearing in other courts that were individually docketed is I'd be assigned to a particular judge, I'd call in two days or a week before and told where I am on the priority list. If I was number three or number four, the expectation is I'd get another trial date with that same judge and have to wait another 6, to some situations 12 months to get my trial date.

So, the downside is that our judges are having to work on the fly on criminal, civil, and domestic relations cases. The upside is is that we're able to efficiently move those 30,000 filings through our system every year. And we have a close to 100% clearance rate, which means that if we have 30,000 cases filed a year, in a year we have about 30,000 cases closed a year, which is what we use here to measure a healthy system.

At 35-day call, we have again, Monday, Wednesday, and Thursday at 11 o'clock, my job as presiding judge to look at all the cases that have been given 35-day call for that date, to look at the judges who are available. So, everyone who didn't get a trial at 9:30 is available to do 35-day call. And then I assign those cases out. Monday, I had 60 criminal cases to assign out to 5 judges. Today, I had 30 cases to assign out to 3 judges. And so it roughly works out, we average about 10 cases per 35-day call each. And the options at 35-day call are change of plea and/or sentencing, request to set over, or a judicial settlement conference. And a judicial settlement conference is required prior to setting a trial date. If the system works the way it should, prosecutors will have given the defense attorney discovery and an offer well in advance of that 35-day call date. The defense attorney has had a chance to digest both the discovery and the offer and discuss it with their client, and then to be ready for either plea or sentencing or a judicial settlement conference.

The reality is is that the system rarely works perfectly. And so set overs can happen because the DA's office hasn't got discovery, a client hasn't been available to talk to their attorney, or for those reasons. And we, I think, liberally grant those set overs, but are in the habit of asking why. And we're asking why so we can identify what the delay in the system is, maybe provide some direction, and then we are trying internally to get better at reporting that in Odyssey. So, that if a case is being set over multiple times because the DA's office hasn't been able to get discovery, then the judge can address that discovery issue. If cases are being set over multiple times because someone needs more time to talk to their client, then the judge can address that when it's appropriate.

Our settlement conferences are the attorneys come back into my chambers. I talk to them about the case. I try to think of creative ways of resolving the case or try to find some middle ground for them. And then it either results in a plea, a dismissal, or the case gets set for trial. So, that's our system in a nutshell. Crystal, if you would switch to the next docket. I kind of showed you the big picture and then I talked about the smaller picture. This is just a more detailed example of what I explained and the steps. Kind of the pinkish colors are initiating and resolving steps. The orange are things that are out of the court's control; it's up to the attorneys. And then the blue are just options in the way we flow things through. So, if everything works perfectly, there should be an arraignment, a 35-day call, and then maybe a trial. And so that should be the total touches. And we want that 35-day call date to be productive, either through a settlement conference or a judge addressing what delays there can be.

In a nutshell, that's kind of the system that we have and that we've been using for about 20 years. When I started in the Lane County District Attorney's Office

is when they started this process, and it's evolved. I can tell you from my personal experience, when I was a new lawyer in the Lane County District Attorney's Office, I would have four trials a day, and my days were spent trying to negotiate those trials on the eve of their trial dates. A 35-day call date when Judge Bearden required settlement conferences before trial dates being set – overnight, my trial workload switched from four a day to three or four a month. And so I think attorneys who didn't experience that time before can be frustrated with this process. But from my real world lived experience, it made a huge difference, and it resolves a healthy number of our cases. Anyone have any questions for me? I was told don't talk too fast, use some time for questions. I'm worried that I failed the first part, but at least I have some time for questions.

Chair Jennifer Nash: Thank you, I really appreciate it. Commissioner Smith.

Addie Smith: So, it sounds like if you were to make sort of a recommendation to us or to colleagues across the state, it's really the 35-day call date that is doing the heaviest lift in terms of helping you manage your representation issues. Is that fair to say?

Jay McAlpin: Yeah, and there's some caveats to that. One is that each of our systems and sizes and resources are so different that it's really hard for me to recommend a one-size-fits-all type process. Also, I always try to be mindful of the fact that as much as I like to think I know everything, the DA's office should be the expert in managing what they file, and defense attorneys should be the experts in the resources and time they need to process cases. What the court can provide is an efficient system with settled dates and useful expectations, right? I certainly have appeared as a civil attorney in courts that set up status check after status check after status check, and I would have rather poked my eyes out than to appear for another status check that did accomplish nothing.

And so I think that you could have a 35-day call system, but unless you are asking those questions about why we need to do set overs, if you're not making yourself available to participate in productive settlement conferences, if you're not willing to take change of pleas and sentencings even if it's getting to be a heavy workload, then the court's not doing its part of the job. And so that's what we can provide. We try to provide a simple system that is effective, and we try to staff it with judges who are ready to do those things.

Addie Smith: Thank you. And thanks for taking the time to join us today.

Chair Jennifer Nash: Yes, we appreciate it. I saw someone else's hand, I think Commissioner Buckley. No.

Peter Buckley: Yeah, thank you.

Chair Jennifer Nash: Okay, are there any other questions or comments? All right, well, thank you very, very much. It was very helpful and thank you for your follow-up answers to questions and we really appreciate your time. Thank you for being accommodating with starting a little bit later.

Jay McAlpin: I actually had a whole joke about the fact that I gave Brook a compliment at the beginning. I felt the need to write out a list of things I thought he didn't do well, but I didn't have enough time. Of course, now I have enough time, and I didn't actually write anything, a list of things that Brook didn't do well.

[Crosstalk 02:53:30]

Chair Jennifer Nash: [Laughter] Thank you very much for your time.

Jay McAlpin: Thank you very much for the invitation.

Chair Jennifer Nash: All right, moving on to our legislative update from Ms. Taylor.

Lisa Taylor: Hi, thank you Chair Nash. Let me just share my screen with our presentation. Okay, great. If there are questions, please just speak up because I can't always see all the hands on the side. So, this is our legislative update. We have September Legislative Days coming up next week, and I just kind of wanted to go over what committees the commission will be appearing in front of and what the LFO recommendations for our submitted requests are. Those have been posted online. So, again, these are just going to be recommendations that I'm going through. The Emergency Board hasn't actually made any decisions until Legislative Days.

So, first, just a quick overview of the legislative landscape as we go into September Legislative Days. The Emergency Board, of course, has limited funds. Only so much money is put into the Emergency Board at the end of a session, and as requests come in, that fund amount is reduced. I believe right now they have about \$43 million in the Emergency Board. So, there is relatively limited funding. And then as you're probably aware, there have been substantial fires this fire season, I believe some of which are still ongoing. And so those are really taking up or likely to take up a large amount of that remaining emergency fund. So, those things have kind of created a limited fiscal environment going into these Legislative Days.

As you'll remember from our last commission meeting, we had a series of requests, and we had a discussion about whether we should keep those requests as they were written or if we should amend them so that they weren't using general fund. And the commission really agreed that we should be

requesting to use the SPAs available and the funds available rather than general fund. I think that was definitely the correct choice there. So, our letters were submitted relying on the requests that the Emergency Board no longer hold and reserve 5 million of the 6.2 million SPA that we have and then using that full SPA, no general funds are being requested. Also, as you heard Director Kampfe note, we have been participating in a series of meetings, one of which is on Friday with legislative leadership, the Governor's office, and system partners, to better understand the underlying causes and potential solutions of the unrepresented crisis. Which really, I think that entire conversation really connects into the Emergency Board requests and the requests we'll be making during session.

With that, so we have legislative committees coming up. We will be in front of three committees during Leg Days, the Joint House and Senate Judiciary Committee where we'll be giving a brief presentation on the unrepresented numbers and our executive transition; the Public Safety Subcommittee where we have two reports – the executive transition, and the unrepresented report – as well as all our items, which are the THIP extension, a reorganization, the request for additional MAC, the request for assignment coordinators, and requests for some additional staffing through the executive move. I'll note here, it's also in a future slide, the request for the Southwest Oregon office was removed from the agenda at what I'll just say is a higher pay level than mine. So, I don't have a lot of information about that, but it's no longer being heard on the agenda. That said, it could be a POP going forward in the session. And then we're also up in the general government subcommittee, though this is just for consent reports, a remediation plan, or FCMS report.

So, first we have joint judiciary. We'll be providing, like I said, a brief presentation on the unrepresented and executive transition. We've been asked to come in for 15 minutes, so it will really be a fairly brief presentation. We will also be submitting the Comprehensive Public Defense Report for December Legislative Days. So, that's really going to be the large presentation that we give next time around in front of Judiciary. And then we have the Public Safety Subcommittee. Like I said, we have seven items before that committee. It's a very heavy agenda. So, we're preparing an actual presentation for only the unrepresented persons items. Of course, we'll be up in front of them for every item, but we only have a presentation for the unrepresented persons report. OJD will also be presenting on this topic. So, we'll hear from both of us on this item.

And then this is just a chart about what our requests were and what the E Board recommendations are. Again, those recommendations have been posted on OLIS and they are recommendations until actual action is taken by the Emergency Board. So, for THIP, we were requesting that they acknowledge the

report, release the reserve SPA, and then extend THIP through the biennium. The recommendation is that they'll acknowledge the report, they're going to deny the request to remove the reservation on the SPA, and they're deferring the request for extension until December. So, this denial of the request to remove the reservation on the SPA is repeated throughout multiple of these recommendations. I think the assumption there is that they don't feel comfortable releasing that SPA at this time, and they want to hold it until we get to December where we would be able to potentially do a rebalance to pay for that THIP extension. And at that time, once they're sure the money is all there, they could release the SPA.

For our org structure, that report transferred funds between multiple divisions within the agency, and it also requested four permanent positions. The recommendation is to establish three of the limited positions. And these positions, it's three program analyst four, and what that will do is allow us to move our current program analysts who work in trial support and development over to these new positions because they're currently sitting within the procurement section of Administrative Division. And so that will free up the three procurement positions, which we're requesting to down class into actual procurement analyst positions, along with a manager four to a manager three. And that will allow us to go out and hire those three procurement positions and a procurement manager. So, we'll be able to establish a actual Procurement Division within the agency, so we're prepared to move to the executive branch.

The 25 additional MAC was deferred until December. Our assignment coordinators, which are the requests for two additional positions to act as the assignment coordinators who manage the THIP cases, we requested them as full-time permanent positions, and the recommendation is to authorize them as limited duration positions within CAP. But I think it's still very exciting that we're going to have two more assignment coordinators that should really increase the number of THIP cases we're able to assign, including on those Betschart cases. Our additional staffing positions, we had two positions in IT, and then this is also the backfill of the AP and PAE positions. We were authorized the one chief data officer limited duration position and the two...or sorry, the pre-authorized and AP limited duration positions were all authorized. Basically, we're just being told to self-fund all of those positions.

And then as I mentioned, the Southwest Trial Office is not on the agenda. So, those are the current recommendations. As you can also see, all of them are self-funded. So, they're giving us the position authority, but they're saying based on your reports, you have the savings, so you can go fund them on your own. Are there any questions about these requests or recommendations?

Chair Jennifer Nash: So, just to put a, not a fine point on it, but maybe a very blunt point on it, all of the requests that we made that were in alignment with the Governor's plan to reduce the unrepresented persons crisis, but for the two positions for the assignment coordinators were not funded by the Legislature. We're not recommended by LFO. Sorry, let's be very specific. We're not recommended by LFO to move forward. Correct?

Lisa Taylor: I think that is correct. The assignment coordinators were an important piece. And then I think the extension of THIP hasn't been denied. It's been deferred.

Chair Jennifer Nash: Well, and the additional MAC has been deferred on the Southwest trial office. Just to be clear, the Southwest trial office was removed by legislative leadership. It was not an agency decision. So, that's not being presented to the E Board because the Legislature's decided they're not going to consider it. Okay, Commissioner Buckley.

Peter Buckley: My head's kind of spinning here a little bit. Thank you, Lisa, for this information. In the presentation that is going to be provided on the unrepresented crisis, I'm hoping that there will be at least a mention of the plan that we have presented to the Governor. I just don't think enough people have paid attention to the fact that a plan does exist. So, I'm hoping at least that will get mentioned so we can get more awareness that if there's a better plan, I'm sure the commission would love to see what the better plan is, but I just want to raise awareness that the plan submitted to the Governor. Thank you.

Chair Jennifer Nash: People have plans. They think are better plans. They're not better plans. And to summarize the plans, it's lawyers need to take more cases. That's the better plan. Not particularly helpful, not going to happen, but anyway, there you go.

Jennifer Parrish Taylor: And it's also how we got in this mess.

Chair Jennifer Nash: Yes, yes, ma'am.

Jennifer Parrish Taylor: And concepts of plans aren't actual plans, just saying.

Chair Jennifer Nash: Correct. Senator Prozanski.

Floyd Prozanski: I just want to follow up with what Peter just said. I mean, the bottom line is if there are other plans, whoever's bringing those plans forward should step forward with their name on their plan and tell us what it is that's different and better than what we're working through as compared to same old, same old.

Chair Jennifer Nash: You, well, all right, I'm going to be quiet. Thank you, Senator Prozanski. Any other comments or suggestions or questions? Commissioner Smith.

Addie Smith: Yeah, just to echo that, but to say that I'm happy to be available to talk to anyone who has other ideas either about how to tweak or reform the Governor's plan that we put together or about other specifics just so that there's a point of contact. I would be more than happy to brainstorm or think through ideas with anyone who's open to it and then take those back to our Legislative Subcommittee.

Chair Jennifer Nash: Commissioner Parrish Taylor.

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Chair Jennifer Nash: Commissioner Parrish Taylor.

Jennifer Parrish Taylor: Yeah, without being snarky, I think this also underscores the need about how can we be proactive with the Legislature to really explain what's happening and how we're being responsive and what are our plans and why this is the way forward. I can imagine it's hard to approve something if you don't fully understand how it works, or at least I would think it would be hard to sign off on something if you don't fully understand how it works. And so I think that's incumbent upon us to do that work and have those conversations.

Chair Jennifer Nash: Thank you. I will say just for everyone's kind of knowledge about what's kind of the current landscape, so on the Friday before Labor Day weekend, there was a meeting, Commissioner Buckley was there, I was there, Ms. Taylor, Director Kampfe, persons from the Governor's office, persons from the Legislature, Senator Prozanski, Representative Evans, Representative Kropf, Senator Sollman, various staff people, to have a discussion about the Governor's plans, some questions that the Legislature had, just general discussion about how to move forward to solve the unrepresented persons crisis.

Out of that meeting, Representative Kropf suggested and volunteered, really, to drive over and have a longer meeting to kind of sit down and try to hash these things out. Also there were some suggestions made about who else should be at that meeting, specifically that there wasn't anyone there from the provider community or the district attorney's office. And now there's going to be a follow-up three-hour meeting on Friday in person in Salem that will include all of the people I already mentioned plus district attorneys, providers. It's a large

group of people to kind of do exactly what we're talking about. I will say my hope, also LFO was there, I did not mention that.

What became apparent to me very quickly in the shorter long meeting that we had was that there's a lot of communication issues. I was kind of astonished that I felt like we weren't even on the same page. I mean, we were saying the same words and using the same language, but it meant different things to different people. And there was just a general lack of understanding and Senator Prozanski can jump in and correct me his impressions too. But it became really clear that we needed to have a much longer conversation. And really it was, I think to be most productive really starting from a place of common understanding would be helpful.

And Commissioner Buckley did a really good job about both in that meeting and sending kind of a follow-up email saying, let's see if we can agree on some ground goals that we all are or ground rules about where we are and where we need to move to. Communication to me seems like the key to be able to move forward. I hope that we have some strong facilitation during the meeting on Friday to be able to do that and to be able to have some meaningful discussions. There's a lot of different big personalities that are going to be in that room. And hopefully we can all get to a place of common understanding with the idea that we're all trying to solve the same goal and come up with some good ideas. That's my hope. Does Senator Prozanski, Commissioner Buckley want to jump in and add in anything to my comments about that?

Peter Buckley:

I think you described it very accurately and I appreciate it. And I appreciate all the effort you put in and all the time you've put in. But I just, I really hope that one of the goals for the Friday meeting is to get on the same page just in regard to that there is a plan that's been submitted. That plan would get the, and the unrepresented crisis by February of 2025, if followed, the unrepresented in custody crisis and the underrepresented crisis overall by 2026, if followed. And to have the ability at some point to have a discussion on that plan to the point why I had a good discussion yesterday with one of the stakeholders and just talking about the difference between, we set the 1580 hours. Is that up for discussion? Can we have a discussion on that? What would that mean? We have a Moss Adams six-year plan. Does it need to be six years? Does it need to be longer? What can the state afford? I hope we can have discussions on the substance of the ideas and not about how communications or emails have been exchanged.

Floyd Prozanski:

All I would add is that there has been a change as to everyone being in person. Due to my conflicts, I have been able to get a permission to appear virtually.

Chair Jennifer Nash: Well, I'm glad you'll be there whether it's virtually or not. And I hope that Commissioner Buckley, I hope you can also be there. I know it's a long drive for you, if not in person and by video.

Peter Buckley: I'm driving now.

Chair Jennifer Nash: Oh, wonderful. Thank you. All right. And looking for hands, no hands. All right. With that, we can move on.

Jennifer Parrish Taylor: Oh, I just have one quick comment.

Chair Jennifer Nash: Oh, I'm sorry.

Jennifer Parrish Taylor: Yeah, as part of those conversations, to what extent are folks with lived experience being included? Sounds like zero, but just wanted to confirm.

Jessica Kampfe: I would say zero. I think, I can't think of anybody that's on the invitation list that has lived experience.

Chair Jennifer Nash: Agreed. All right. Moving on to the update regarding the six-year plan.

Lisa Taylor: Oh, I do just have a few more slides.

Chair Jennifer Nash: Oh, I'm sorry.

Lisa Taylor: I mean, this is definitely the most consequential, but again, we have some consent reports in general government. These are rarely questioned. It's kind of done in block, but I'll be there if needed. And then I just wanted to talk about looking ahead to December Emergency Board. Obviously, the conversations we're having in these meetings will have a large part in that, but I really wanted to focus on this timeline. It's a very quick turnaround because reports and letters are due to LFO by November 4th, which means that they need to be approved by our commission during the October meeting, which means that we need to draft them and have them ready to go in about two and a half weeks from now and about two weeks after legislative days. So, we have a legislative committee hold for October 4th, which we'll be making official soon, hopefully, but there will be a lot of materials fairly quickly after this.

Chair Jennifer Nash: And that's everything. Thank you. Thank you very much. And thank you for highlighting the reports that we have to have in place. And approve. All right. So, the six-year plan.

Jessica Kampfe: Thank you. We have invited Jessie from Moss Adams to provide an update to you all on the six-year plan with an expectation that this is going to be back in front of you in October. So, with that, I'll hand it over to Jessie.

Jessie Lenhardt: Great. Thank you so much, Director Kampfe, and thank you to the commission for inviting me here today. Much like Lisa, I have some slides to share with you all. So, please let me know if these are not popping up or you can't see them. We're going to kick this off with just kind of recapping how far we have come in the development of this six-year plan. Based on some of the discussion that just happened, it sounds like there has been a lot of good evolutions to the plan really to make this as useful as possible for you all to have these discussions moving forward with a variety of folks. And kind of helping to refine the plan over time to make sure, again, that it is as useful as possible for you to have these discussions and start putting some action items together.

So, started all the way back in September 2023. So, the first iteration of the plan was completed in March. And then it was presented in March, and that was when we got the update to shift kind of those hours from that 2,080 to that 1,578, really to align with some of kind of the annual hours expectations that were part of other departments. So, in April, we made updates to the plan. And then in May, the commission adopted the National Public Defense Workload Standards. And so with kind of that next evolution and that next decision point, the plan is undergoing a second round of updates in order to apply those standards to the report and to the plan. So, where we are now, we are right at the very end of having completed those updates. And I'll kind of describe those activities and the methodology for you all today. The report is also in the process of being updated with this new information. And then exactly as Director Kampfe mentioned, the plan is to have this back in front of you all in October.

So, the process to update the plan, again, just kind of giving you an idea of the activities that we did in order to kind of convert from the Oregon study case type categories that were used to the National Public Defense Workload Standards. So, we reviewed the current data that was used in the plan and the case charges. So, there are about 890, just under 900 unique entries for charges. So, this is, I'm sure, not new information, but just in case anybody isn't familiar, definitions, case charges, things like theft, trespassing, arson, robbery, murder. And then what we needed to do is apply those case charge types to the National Public Defense Workload Standards criteria. And so that case type categorization, either felony high, felony mid, misdemeanor, parole violation, there's a list of them. So, what we did...