

Members

Per A. Ramfjord, Chair
 Hon. Elizabeth Welch, Vice-Chair
 Mark Hardin
 Paul Solomon
 Lisa Ludwig
 Kristen Bell
 Thomas M. Christ

**Ex-Officio Member**

Chief Justice Martha Walters

Executive Director

Lane Borg

PUBLIC DEFENSE SERVICES COMMISSION

Thursday June 11, 2020
 10:00am – approx. 12:30pm
 Via Microsoft Teams Live Event

MEETING AGENDA

1.	Action Item: Approval of Meeting Transcript – PDSC meeting held on May 21, 2020. (<i>Attachment 1</i>)	Chair Ramfjord
2.	Budget Update	L. Borg & Julie Fetsch
3.	Contracts Update	H. Pate & E. Deitrick
4.	Multnomah Courthouse Update (<i>Attachment 2</i>)	L. Borg & E. Deitrick
*	<i>Five-minute break scheduled for approximately 11:00am PST</i>	All
5.	DHS Visitation Policy Update	K. Farkas & K. McCullough
6.	Public Comment	All
7.	Action Item: Approval of PCRP Contracts (<i>Attachment 3</i>)	K. Farkas & B. Strehlow
8.	Action Item: Approval of Non-Contract Attorney Rate Increase (<i>Attachment 4</i>)	L. Borg
9.	OPDS Staff Update	OPDS Staff
10.	Public Comment	All

In compliance with the Governor's Executive Order No. 20-12 issued on March 27, 2020, this meeting will occur via Microsoft Teams Live Event videoconference and will be available for both live-stream and archived viewing at:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_OTNkZmYxOWQtMzY2Ny00ZGFjLWJkYjltYWU5NWY1ZjM1OWIy%40thread.v2/0?context=%7b%22Tid%22%3a%229b3a1822-c6e0-47c7-a089-fb98da7887be%22%2c%22Oid%22%3a%223d7cf095-922e-45b6-ba97-3e8edd1f03db%22%2c%22IsBroadcastMeeting%22%3atrue%7d

Please make requests for an interpreter for the hearing impaired, or other accommodation for persons with disabilities, at least 48 hours before the meeting to Kaysea Dahlstrom at (503) 378-3349.

Next meeting: Thursday, July 16th, 2020 10am-2pm. Details to be announced at a later date.

Meeting dates, times, and locations are subject to change; future meetings dates are posted at:
<https://www.oregon.gov/opds/commission/Pages/meetings.aspx>

Attachment 1

Kaysea Dahlstrom: Good morning everyone. My name is Kaysea Dahlstrom. I'm the Executive Assistant here at the Office of Public Defense Services. Thank you for joining us. We are waiting on a couple commissioners to join us. We're experiencing a couple technical difficulties. We will be starting this meeting soon. Again, thank you for your patience. I am going to go ahead and put a placeholder screen up. Again, we will be having everyone join us shortly.

[Silence 00:00:48 to [00:03:42]

Kaysea Dahlstrom: Again, thank you everyone for your patience. Our Commissioner, Chair Per Ramfjord has joined us and I believe we are at a quorum. So, if someone could please confirm that, then we can go ahead and get this meeting going.

Per Ramfjord: This is Per. I think we are at a quorum. If the commissioners who are on would just announce their presence briefly, that would let us do that and then we can get started.

Mark Hardin: Hello, this is Mark Hardin, I'm here.

Tom Christ: This is Tom Christ, I'm here.

Kristen Bell: This is Kristen Bell and I'm here.

Per Ramfjord: Anyone else?

Kaysea Dahlstrom: Let's see, Honorable Elizabeth Johnson is also here via phone. Remember, Betsy, that you have to unmute yourself in order to speak.

Per Ramfjord: All right great. Okay, we can get started then. I want to welcome everybody and apologize again for the unfortunate delay here but I want to welcome everybody to the May 21st, 2020 meeting of the Public Defense Services Commission. Again, this is a little bit of an awkward situation to have to be doing this by video. We appreciate everybody's patience in dealing with it.

Just as in the last meeting, I want to make sure that everybody understands, that if they have some questions, that they can email those questions. Send those questions to Kimberly McCullough at Kimberly.M.McCullough@opds.state.or.us and she'll try to make sure that we get those questions heard. Also, to my fellow commissioners, if you have a concern or comment that you want to make and you're trying to get my attention, there is that chat function that we talked about the last time and you should be able to do that on the chat function.

Finally, if I pause at various times, that's because there is some delay here and I want to make sure that there is an opportunity for everybody to make any

comments that they have. Also, just today, I want to note the sad passing of Representative Mitch Greenlick, who was a great friend to Public Defense Services here in the state. He will be missed. I just wanted to sort of express from our perspective, our thanks for the work that he had done in the past, the service he'd provided to us and to note that we are sad at his passing.

So, with that, we'll start with the meeting and the first and only action item really, is an approval of the transcript from the prior meeting. Does anybody have any corrections to the transcript that they want to make from the prior meeting or any comments on that at this time? Okay, hearing none. Is there a motion to approve the transcript?

Male: So, moved.

Per Ramfjord: Is there a second?

Female: Second.

Per Ramfjord: Any further discussion? Hearing none. All those in favor, say aye?

Male: Aye.

Female: Aye.

Per Ramfjord: Any opposed? All right. Motion passes. Okay, the first item, substantive item on the agenda is the legislative update from Kimberly McCullough. Are you ready to do that, Kim?

Kimberly McCullough: I am.

Per Ramfjord: Great.

Kimberly McCullough: All right it looks like I'm live now. So, hello everyone. It's Kimberly McCullough, the Legislative Director here at OPDS. I'm going to give you a little bit of an update of what's happened since our last meeting in April. So, a week after the last meeting on April 23rd, the emergency board of the legislature met. They released a portion of the 20-million-dollar special service appropriation that they had been set to release during the legislative session.

As you all recall, the legislature was set to release all of that funding and that didn't happen at the end of session because of the lack of a quorum at the end of session. So, we were seeking the funding from the emergency board and then COVID happened and basically, everything has now turned to COVID related

conversations. And then also, all agencies are being impacted by expected pretty severe revenue shortfall that we're facing.

Despite that, we did advocate for the full release of the 20-million-dollar Special Purpose Appropriation arguing that really, that our Public Defense provider community right now is working very hard under incredibly difficult circumstances, that the challenges that they were facing prior to COVID could still continue, and, in some ways, are exacerbated by this crisis as they try to address issues with clients who are incarcerated pretrial and facing a lot of, I think, a lot of danger being in places where they can't social distance very well.

So, that said, we understood the reality of the budget shortfall. Frankly, I think that it is actually a testament to the fact that there are a number of folks in our legislature who are very dedicated to trying to address the issues in our systems that they at least put us on the emergency board schedule and did release a portion of the funds.

The funds that they released, really, were aimed at maintaining the status quo and making sure that we can continue the work we're doing but did not add funding to the system so that we could address some of the pressing issues that we wanted to face.

But we are grateful that they at least released what they did. So, the funding that they released. I explained all of this in a letter to you all and to the Public Defense provider community shortly after the E-board but just to go over it very briefly. They released 1.5 million dollars to fund nine positions at our agency. These are not new positions. They are positions that were limited duration positions, meaning that they were just for a short period of time and that's the funding that we had.

So, essentially, by funding those positions and indicating their intention to make those positions permanent, we have stability in the staff of our agency, at least for now. So, that was just incredibly important. The majority of those staff are folks that are working on accounts payable and non-routine expenses issues, making sure that we can get our payments out to providers. So, they really are essential staff. 1.2 or 1.3 million dollars was released for a contract that we had with Oregon Judicial Department regarding information technology services.

As I believe some of you may know, we did not have any internal IT at OPDS until not very long ago. We would have to go externally OJD to get that IT support but we're really grateful now that we have folks that are internal now. They're OJD folks who are on loan to us and really helping us to get our systems into a better place. Part of that work is working on IT systems that will help us internally, with our internal systems and then also eventually, with case management systems to

help with our providers and make it easier for us to track the outcomes of our systems.

Now, it's important to note that they released that 1.3 million dollars out of this SPA related to IT but we didn't have a request in this SPA for that funding. The reason they did that is because there was actually a separate 2-million-dollar SPA, or Special Purpose Appropriation, that was allocated to our...that was set aside in account for our agency. We've been told that that other 2-million-dollar SPA is going to be reabsorbed into the general fund.

So, they essentially took some of the money that they were going to give us there and took it out of this 20-million-dollar SPA instead. And then they gave us funding to increase provider rates for interpreters and investigators. I understand that that is on the agenda to talk about a little bit later. Just something to note, we had asked for funding to increase the rate for interpreters because our understanding was that the Oregon Judicial Department was going to be increasing their rates for interpreters.

We have since heard that that is not happening right away. I don't know when that will occur. My guess is that it's because of the COVID budget issues that they have decided to pause on that. So, we are also going to be pausing on that. The whole point here is that we want to have interpreters who work for OJD or for the Public Defense providers to be paid the same amount so that we can all get interpreters when we need them rather than one of us paying more and then it causes an issue with being able to obtain interpreters.

And then we were allocated \$150,000 on a one-time basis to provide training for juvenile dependency attorneys participating in the Parent Child Representation Program. That funding was not included in our SPA request either but as some of you may recall, during the short legislative session, there was a separate line item in the budget bill where they were going to give us this \$150,000 for training. So, they decided to stick that in the funding from the SPA.

Essentially, what we're going to be doing there is an assessment of the training that is needed and start getting some training up and running but this is really just to get that jump-started and we can hopefully expand that later. That is what happened with the emergency board. Now, back to the legislature. There have been some leadership changes in the legislature. You may have heard that there is a new Republican minority leader in the Senate, Fred Girod, who took over for Senator Baertschiger.

Also, in the House Judiciary Committee, there is a new Chair, Janelle Bynum. Representative Janelle Bynum is the new chair. Vice Chair is Karin Power. She's also a new vice chair and then Sherrie Sprenger, who has been vice chair for a

very long time. Representative Tawna Sanchez had been the Chair of Judiciary but she is now the Chair of the House of Human Services Committee.

That committee was chaired by Representative Keny-Guyer and Keny-Guyer is leaving the legislature. I know that Tawna Sanchez is very passionate about Human Services issues. I think that that is a great opportunity for her and representative Bynum is credibly supportive of Public Defense, very, very interested in the criminal justice system and I think will be a fantastic chair, someone really great to work with. We have a very good relationship with her, so looking forward to that.

I did also want to note, and I appreciate Per bringing this up, that representative Greenlick passed away. He was an absolutely incredible advocate for individual rights, for people with addiction and mental health struggles and he was very, very tuned in to how that intersects with the criminal justice system. He was a very, very kind legislator.

I often said that he was the nicest person in that building to me, always very, very supportive and I appreciated his leadership, his integrity. He was going to say what needed to be said no matter what and stand up for what was right, and I just appreciated that so much about him. He will be dearly missed.

The legislature will be holding a virtual legislative day. That's going to happen next week with... The House and the Senate are going to actually be having separate legislative days, which is a little interesting. The House will be meeting next week and then the Senate will be meeting that following week. The Judiciary Committee's will then be meeting separately when they usually meet together. During the interim, the House Judiciary Committee, next Thursday and then the Senate Judiciary Committee, the following Wednesday.

I am assuming that those hearings are going to look very similar but only to help Judiciary Committee's agenda has been posted so far. They will have presentations on the judicial response to COVID, including Chief Justice Walters presenting on that and Nancy Cozine from OJD. There will be a presentation from Department of Corrections about their response and a presentation on domestic violence and how COVID has impacted domestic violence issues.

So, we are keeping regular contact with the governor's office, the speaker, OCDLA and the chiefs and the sheriffs and the Department of Justice and other stakeholders and OJD, to really try to keep a handle on potential legislation that could be coming our way. We're trying to make sure that the Public Defense community's opinions are heard and that the legislature and stakeholders are considering how COVID and related issues are impacting our agency and our contractors.

Some specific things that have come up that we're engaging in conversations around are extension support deadlines and how that could impact folks who are being held in custody pretrial. We are working very closely with stakeholders and there is going to be a workgroup fairly shortly, to talk about how we can ensure that people's rights are respected and how we can pull forward with best practices and also make sure that folks are safe since being incarcerated pretrial is not a space where folks can social distance and so there are particular dangers there.

We've also been engaging in conversations about expansion of officer's discretion not to arrest individuals for outstanding warrants. That is actually a conversation that was prompted by the folks who are working on the domestic violence issues and they put together a package and worked with law enforcement.

There are a number of crimes right now where an officer already has discretion to arrest but that is... The hope is to expand that because there certainly are some sort... I think for example, small-scale possession of heroin is B felony. In the current system, an officer does not have discretion to not arrest that individual and they really don't feel like that is actually serving public health and safety to arrest that individual when they can simply cite them and move on.

That's an example but there's a conversation and, I think, some great consensus around that. And then moving on, COVID has really put a pause on a lot of the work of the legislature on policy that is not COVID related but we are seeing some of those things pop back up again. There is a work group that's been convened by the Oregon Law Commission on Municipal and Justice courts. We had our first meeting yesterday, so that is finally getting started.

There's potentially some reform on their horizon around pretrial release and bail reform. The Public Safety task force is starting to meet again, or at least the subgroups of it to discuss that. We expect that some of the other issues out there like Juvenile Expungement and the Indian Child Welfare Act will eventually come back to meeting as folks are starting to adjust to the way life is now. So, I think that that's all unless any of you have questions.

Thomas M. Christ: This is Commissioner Christ, can you hear me?

Kimberly McCullough: I sure can.

Thomas M. Christ: Okay. Hi. I understand that the revenue forecast just came out yesterday and it's pretty bleak.

Kimberly McCullough: Yeah.

Thomas M. Christ: Does that... Help me understand that. Does that affect our current budget, are we going to have to give them money back?

Kimberly McCullough: Yeah. I can address that a bit and then perhaps folks who come after me can address that as well. Right now, what is happening is all state agencies have been asked to go through budget reduction exercises. Those exercises are actually fairly routine, they happen frequently. And we, as an agency, have been, since we're not in the executive branch, we actually have been working with LFO. They've had their own separate exercises. Folks may have heard about the executive branch agencies having to do, it's like 8% reduction exercise.

We've been asked to do 5%, 10%, and 15% exercise just to see what it would look like. We have been told not to include anything that we have received in the special purpose appropriation as we do that exercise. One of the instructions that has been given to agencies in general also, is they don't want to be looking at reducing public employees at this point. But again, this is just an exercise so that they can take a look at it.

What ultimately will happen is there's a panel that includes the governor's office that will then look at everything holistically from all of the agencies and make decisions based on their information about where they think things need to go. It is important to note that our budget cannot be reduced by executive actions because we are not an executive branch agency.

The governor has some power to do reductions to executive branch agencies but our agency, it would require an act by the legislature to reduce our budget. And then when they reduce a budget, they reduce it in the specific buckets. And so, we have our professional services account, which is where all of our contracts are. We also have what pays all of our state employees.

So, they could say that there are reductions in those buckets but then how those reductions impact what the agency does then, would be the decision of the Commission, to decide on how those reductions would impact us. So, there is some uncertainty, I think, at this point about if and whether or not there would be an actual reduction to our agency.

I think that our argument would be that we are providing constitutionally mandated services and we have no control over the caseload and even though there may be a bit of a lull in new cases right now, our understanding is that prosecutor offices are just sitting on a bunch of cases that they do intend to file once COVID and some of the issues lift a little bit, we do expect that there will be a boom of cases.

One of the other things we've been discussing with Legislative Fiscal Office is the Ramos case and how that will also increase workload at the trial and appellate and PCR levels, right. So, we are making the case that there are just certain things that they just should not be reducing but it is unclear to us exactly what will happen. So, that's sort of, maybe not a super clear answer but hopefully, that helps.

Per Ramfjord: Do you have any... What are you hearing, sort of at the legislative level in terms of when there is some expectation that things might return to normal or whether they'll be, you know, how business is going to...how long the impacts are going to be of this crisis in terms of funding and our ability to get additional funding and say, going forward?

Kimberly McCullough: Yeah, well, I mean, I think things are fairly uncertain at this point. I think the state is engaging in some amount of reopening right now, but I think it will be an incredibly cautious reopening. I think the thing that we all need to be cognizant of is the fact that in the fall, unless there is, by some miracle, a way to stop this disease, which we don't anticipate a vaccine that soon, and then there's the whole issue of getting the vaccine out, right, so we could see another closing.

And we could see even further sort of rippling effects in revenue and budget. I don't think that any of us should expect that there will be surplus budget or the ability for us to expand our budget to address issues in the ways that we were hoping for some time. That is extremely disappointing. I think it's disappointing to me on a personal level because that's why I came here, is because I wanted to help with that reform. I think right now, we're really in a position of fighting to keep what we have, and I think that is going to continue for some time.

Per Ramfjord: Okay, thank you. I agree it's incredibly disappointing to have been so close to actually getting some additional funding and being able to do some good things and also having been so close to perpetuating some longer-term reform. I know that I'm personally disappointed and I've also heard from other commissioners who, I think, are equally disappointed.

And that's not to mention the provider community, I think, which is exceptionally disappointed. To get so close and then not to be able to get that additional funding is extremely disheartening. But I certainly, you know, we understand that these circumstances are not typical and it's not something that we can easily address. Do other people have questions for Kimberly? Okay. Hearing none. We'll move on to Keren Farkas, with the PCR. P.

Kaysea Dahlstrom: Hey, Keren, remember to take yourself off of mute.

Per Ramfjord: Yeah, that's just what I was going to say.

Keren Farkas: I haven't learned anything apparently during this COVID time, with technology. So, sorry about that. I will start over. Good morning, Chair Ramfjord, Vice-Chair Welch, members of the commission. My name is Keren Farkas, and I am the PCRP manager at OPDS. While we will be working through the potential contracts for Multnomah PCRP during today's executive session, we wanted to speak on two components of the PCRP in Multnomah during this segment of the meeting.

The first one dovetails with Kimberley McCullough's response to the Commission's question at the close of the previous presentation. As the Commission knows, last year, the legislature directed OPDS to roll out PCRP in Multnomah. And since then, we have been working towards that roll out, speaking with current providers, answering the questions and holding an info session and issuing the RFP earlier this year.

Clearly, the COVID pandemic and all of its impacts have hit during this contracting process and as a state agency, we are cognizant that these are economic uncertain times. We did proactively touch base with the governor's office, the Legislative Fiscal Office and other government stakeholders to seek clarification. We were happy to hear that PCRP still has strong support.

There is an understanding that PCRP is a worthwhile investment and that it, not only improves representation during the case but has the potential for cost savings and other budgetary benefits to social service agencies and of course, foster care costs and ultimately, there is resounding support for the continued rollout in Multnomah, which we still plan to have happen in July 1st.

The other component I want to speak to is our efforts to recruit case managers for PCRP. We received a number of applicants to be independent case managers in Multnomah and we are really excited about the rich diversity of experience with this group. They offer a mix of both lived experience, professional experience and also discipline related degrees. We are also hoping to expand the PCRP into being a fully in-house interdisciplinary team with a couple of organizations in Multnomah.

The transition of PCRP in Multnomah is requiring innovation in the model in a couple areas and this piece will be one of them. We will be working on a distinct oversight model for in-house case managers to ensure the integrity of the position remains and it can reap the same benefits for clients as the independent model.

As a side note, I just wanted to comment on the amazing added value I have seen and heard from providers about how the interdisciplinary representation of PCRP and the PCRP counties have assisted attorneys and of course, supported clients in

navigating the impacts of COVID 19, really just beyond the actual case but also, addressing the human needs and impact that COVID 19 is having on our clients, a particularly vulnerable population. So, that is my update. I'm happy to take any questions.

Per Ramfjord: Did anybody have any questions for Keren? Okay. Hearing none. Thank you very much for the update. Appreciate that very much and keep up the good work. We're glad that we are at least moving forward with some additional resources for PCR, so that's one bright spot here. So, thank you for that.

Keren Farkas: Thank you.

Per Ramfjord: Okay, moving on. We'll go to the contracts update. Eric, are you going to be up for that?

Heather Pate: I'm up first. This is Heather. Good morning.

Per Ramfjord: Oh, okay, sorry.

Heather Pate: That's okay. Good morning, Chair Ramfjord, Vice Chair Welch, commissioners. I'm Heather Pate, I'm the Contracts Manager. I'm going to give you a brief overview of where we are regarding contracting. When the RFP was released earlier this year, as you've heard, we were anticipating, we were preparing for an influx of funds from the legislature that would have allowed OPDS to increase capacity around the state to better meet the demands of increasing caseloads.

As you know now, today, we don't have that funding available to us. During the time period the RFP was open, everything changed. We've had to determine quickly how to get contractors into new contracts while managing expectations with no additional funding. We understand and see the need to add capacity around the state but without that anticipated funding, we aren't able to accommodate all the needs at this time. We are moving forward with new contract documents for all contractors.

A bit of history for new commissioners. In February of 2019, the Commission voted to move away from the previous model of contracting, which was the credit model, to a different model of compensation for all contractors. This decision was based on the findings from the Sixth Amendment Center report. The new documents move us away from the credit-based system to a workload-based system of compensation.

Eric is going to give you a few highlights of those documents in a moment. Contract analysts are currently reviewing applications submitted for the RFP. We're focusing on covering the estimated caseloads in each county. They're

contacting contract administrators to have those discussions. They haven't met with everybody yet, but they are diligently working and will get to everybody just as soon as they can, and contracts will come to the Commission in June.

Eric Deitrick: I can jump in now if that makes sense.

Per Ramfjord: Yeah, that makes sense. Sure, go ahead.

Eric Deitrick: Okay, my name is Eric Deitrick, General Counsel for OPDS. Chair Ramfjord, Vice Chair Welch, members of the Commission, following up off Heather, we discussed our contracting model back in the January PDSC meeting and at that time, we discussed the move away from the flat-fee case credit model to the new FTE model.

But also, aside from the models, we were committed to having contracts that were more transparent and readily understandable by regular folks, by legislators, by public defense providers doing the work at the ground level, that really made it clear what was expected in terms of both sides of the contract bargain.

We had some goals at that time which I don't think we're going to be able to meet such as the 0.8 rule that we heard positive feedback from some of the commission members about, which was a policy position that an attorney could not be under contract with OPDS unless they were dedicating 80% of their time to public defense work. But I do think there will be changes in the contract terms that will be helpful for everyone going forward.

So, what contractors should expect in the new contract is, one, we are moving to the FTE model. So, we are no longer buying cases, as an agency. We are no longer paying you for a case. We are paying our contractors for the number of attorneys they employ or bring into their groups and how much or what percentage of their time is public defense work.

That is what will be expected under the contracts and that FTE amount will be called out in the special terms of the contract. It'll say specifically how many attorney FTE is expected to be provided by the contractor under the contract. The contracts in the specific terms will also include the total value of the contracts. So, one of the things we will also be putting in the contracts in the specific terms is simply doing the division on that, the total contract value divided by the total attorney number of FTE.

This will demonstrate in the specific terms what the contract value per attorney FTE is. Again, it's not our expectation as an agency that they are bound to provide that amount to each provider in their group. We understand that there is going to

be flexibility based on case types that the attorneys handle, based on their experience, based on their percentage of time committed to public defense.

But for transparency purpose, I think it is important to list the contract value per FTE because that is the way in which we've moved to communicating to the legislature about how we're funding public defense as an agency, is cost per FTE. But the other thing is I do want to prepare the community for this. You are going to see a wide range of cost per FTE in these contract documents.

That is not a reflection of choice, affirmative choice by the agency. Without additional funding, as Kimberly talked about, we're basically rearranging the deckchairs into a new model but we're not adding capacity, we're not adding new money. And by moving to the FTE model and being transparent about it, what it does is it will uncover the inequities that have been baked into our system that were covered up by the case credit model.

So, you will see regional disparities, you will see disparities within one county where groups are contracted for a different amount per FTE. And, as we move forward and try to improve our system and make it more transparent, I think it's important that we own that upfront and just acknowledge that those inequities exist.

Another thing that will be in the new contracts is there will be a line item for administrative costs. We know, the Commission knows, the public defense community knows that historically, people who administer contracts, that takes time. You have obligations to the agency to report information, you have an obligation to make case assignments, to make sure that the attorneys in your group are getting mentorship and training and training and that isn't free.

So, while historically, group contract administrators may have taken a cut or a percentage out of the contract amount that we sent to their group, that will now be laid out in advance. It'll be written into the document and no other amount can be lifted other than what is specified in the contract for administrative costs. Another change in the specific terms of the contract will align with the Commission's vote last February.

As we have moved away, during the six-month extension, we made it clear that we were not funding them based on case credits. I say [Inaudible 00:42:51] to contractors. But we had learned that some of the groups were still relying on that case credit model and within their consortium groups, were still distributing funds based on a case rate model.

So, it'll be specifically laid out in the specific terms that contractors cannot distribute funds based on a flat fee or a case rate. For public defense and offices in

law firms, this won't be a problem because they operate under a salary system but for consortia, they will have to come up with a new way to distribute their contract funds that doesn't involve flat-fee case rates, so that will be built into the contract.

In line with that, one of the things we are going to put into specific terms even though it's implied in the general terms is an acknowledgement that the Oregon Rules of Professional Conduct, Rule 1.7 says, you have a conflict of interest if taking on representation of one client causes you challenges in the representation of other clients. The easiest way to think of this is the too many cases ethics rule.

So, we are putting in there that we want our attorneys to be mindful that they are not expected to take cases above a caseload that they cannot ethically handle. Another piece to the new contract provision will be quarterly attorney case opening reports. There is an expectation by the legislature that we are going to start gathering better information.

And the most embarrassing question put to us that we couldn't ask when asked by state officials, policymakers, legislators, is, "Are you able to know an attorney's caseload at any given time?" and currently, the answer is no. So, we will be creating a fillable document that attorneys will fill out and submit quarterly, listing every case and case number they were assigned to that quarter. We're going with assigned cases rather than closing cases because in my experience, you can sit on closing files.

Trust me, I've seen it happen, but you have to open a file when you're assigned the case. I think we'll get better information from providers on detailing how many cases they open per quarter. The final piece we will be adding is something we discussed at the last meeting, which is a prohibition on non-compete agreements for contractor groups.

So, with these terms added, we're clearly moving toward this FTE model. We will be able to demonstrate to policymakers how much we're paying per attorney to do the work. We will have admin costs lined out and we'll start getting caseload information. So, it is a step towards a more transparency contracting process. I'm happy to answer any questions.

Per Ramfjord:

This is Per. I mean, it sounds like much of the actual transition in terms of the structure of the contracts, the terms of the contracts and just basic provisions, will have been made regardless of the fact that we haven't been able to expand the number of attorneys or have the level of funding that we might otherwise want to have. Is that fair to say?

Eric Deitrick: Chair Ramfjord, that is fair to say. That's why, while we're not adding capacity, just the changing of the model itself will help address some of our concerns. But one of the concerns it will not address is the caseloads and the lack of capacity increase we won't be able to make.

One thing I forgot to mention which I should mention is, unlike the previous case credit model where they got paid rigidly per case, it's crystal clear in this contract that the caseload estimate that they are contracting for is a target, it's a soft quota. They will not be financially harmed in any way if they don't meet that caseload goal.

That's another reason why we added the Rule of Professional Conduct piece in there. We really want to make it clear that we are not asking people to take on cases they cannot ethically handle and to the extent they cannot meet those goals, we will have to address that going forward.

Per Ramfjord: Okay, there is a question that was raised in the...from others. That is whether or not this theory of unequal payments per FTE is somehow another way of covering up the case rate system or what used to be called case count. Why isn't that the case? Is that something that you can address, Eric?

Eric Deitrick: Yeah, I can, and thanks for the question. I think that's somewhat true. Providers that took on higher cases would have a higher value although I don't think that's necessarily the big driver. I think a lot of it has been driven by the case types that different groups take, and the values associated with those case types as well as a second factor, which is the caseloads of the attorneys in that group.

And then we do have groups that really do monitor caseloads well and they don't get paid as much because of it but they do have those lower caseloads. And then the third piece is, some groups don't hire support staff or admin and that impacts their overall numbers as well. These groups all around the state were not planned, they were organic, they grew on their own and they're all very different.

And, as this case credit system dispersed funds here and there, it did so without any bearing on how much we were paying per attorney. That's what we're trying to uncover right now and make it out there, make it known so that as we improve going forward, we can try to provide equity to those per attorney rates. Because they will be different and some of them will be significantly different.

Per Ramfjord: Right, Mark, did you have a question?

Mark Hardin: Yes, a couple of related questions. I do remember from the Sixth Amendment report, noticing some strong differences in payment levels among attorneys and I was interested in your comment about ongoing inequities. I'd like to hear more

about what are some of the persistent reasons for ongoing payment inequities, what are your efforts to overcome them or address them and what barriers are you facing in achieving better equity in terms of payments for attorneys?

Eric Deitrick: I think, Commissioner Hardin, to answer your question, part of the reason the per attorney FTE value is so disparate is because it was never the goal of the agency to achieve that. I mean, the agency's goal was always in terms of parity amongst case rates. But again, depending upon the types of cases your group handles and the level of support staff you need as well as historically, public defense offices in other groups that had more administrative responsibilities in their county for things such as specialty courts, treatment courts, doing arraignment duties, would often get line items built into their contract.

I think one of the barriers has been that that just wasn't a focus of the agency. We were focused on equity and case rates not per attorney. That's a shift that, in terms of payment, you can see aligns with what we're trying to do with the legislature as well. They, despite the fact that Lane often mentions, that we fund probably over a thousand people per year, their families, their homes, we are still treated at the legislature as someone who contracts for services and they're not treated as people, they're treated as widgets.

So, once we start an agency, trying to actually treat them as people, all of that historic inequity becomes exposed. The barriers are twofold, funding, additional funding to reduce the inequity and then, finding ways as an agency to, I think, going forward, better define what we want rather than having these organic groups pop up. I do think this is probably the last time we will be contracting in this manner where we ask people to make proposals to us about what they want to do.

My expectation going forward is we will have more control over the RFP but where we will be saying, "This is what we want in this jurisdiction, tell us how you're going to do it." But we are not able to get there with this contract cycle and not without the additional funding. I don't think the barriers are anything that cannot be overcome with additional funding and time.

But I did want to take this time to prep people for that because I know that the agency, public defense providers and me, when I was on the ground doing public defense work, it is fundamentally unfair when people who are doing the same work are not being paid the same and we want to correct that. But the first step to correcting that is actually, making that a goal of the agency, changing our contracting model and making that something we aspire to.

Mark Hardin: Did you find situations in which some attorneys are being unfairly paid more for the same work done by other attorneys where that cannot be explained by

differences in case type or special needs in a jurisdiction? And if you found that, when you found that, have you been able to make at least some corrections to move closer to equity or achieve at least a higher level of equity?

Eric Deitrick: Yeah, Commissioner Hardin, I can think of instances where we've got information about compensation and have, whether it's through our contract analysts, worked with communicating with the contract administrator to improve things. But again, historically, people don't necessarily come to us because they don't know they're being paid in an inequitable manner because they're on a contract, they get their compensation.

That folds into a new piece of the current contract, is it will be required for every person in the group, to read the specific terms of the contract. It's only two pages long, not just the contract administrator but the people doing the work because we want them to see the contract value, the number of attorneys and contract value per FTE. So, we can get that information down to those people so they're aware of the value of the contract and can contact us.

We can make improvements if we know about it but we, frankly, just don't often get that information. The second challenge is when we get that information with the independent contractor prohibition that we have to be careful of, we have to be really careful about directing them how to spend the money unless we put limitations in upfront.

Again, that's what, I think, we'll be looking to do after this 18-month period is over, as we go through this bridge of change to the new model and we can do that. We could, for example, say, "We're looking for a group to start a consortium in Jefferson County or Wasco County and what we want is a group of 10 attorneys that distributes the fund at a salary at this amount. Come to us. Tell us how you're going to do that." That would be a legally permissible way to do an RFP that would get better equity.

Per Ramfjord: All right, thanks. Thanks, Eric. Does anybody else have any questions for Eric or Heather actually?

Kristen Bell: Yes, I have a question.

Per Ramfjord: Okay.

Kristen Bell: Thank you for going over that and for I'm explaining the Rule of Professional Conduct wherein a person isn't supposed to be taking more cases they can ethically manage. I was curious if you could say a bit about what the plans are for helping attorneys talk to each other across different offices and with OPDS about thinking through where that line falls and how they should be thinking about that

and whether they're sort of applying the same standard in their office that is being applied in other offices.

Eric Deitrick: Sure, Commissioner Bell. Again, I put them in the contract because it is important but if you look at the Oregon State Bar's ethics opinion on that, which I actually think may have been drafted by my predecessor, Paul Levy, it details the steps an attorney needs to make when they feel like they're in that position that they have too many cases.

It recommends that they first, go to their manager. If they're not satisfied with their manager, they go to the executive director and if they're not satisfied with that, they would come to us, OPDS as an agency. But the best thing that will provide guidance in this is the ABA caseload study because right now, we do not have data informed caseload standards, but we will have them, at least for adult criminal cases.

Well, we'll have a number on a caseload standard that the Commission could adopt probably by this fall and that would provide guidance statewide. Absent that, I know we will continue to work on doing better outreach. We've taken to these weekly meetings during COVID and they've separated to bi-weekly. I kind of think they may not stop just because they have been helpful in communicating with providers that are around the state.

One of the other things that we will be doing to help monitor this is we currently have a team of me, Erica Herb, and Whitney Perez in our General Counsel division. We did get funding for an additional General Counsel position. We plan on posting that soon. My goal has always been to have the state divided up into thirds so that each one of our Deputy General Counsel is responsible for monitoring exactly what you're talking about, which is the caseload and workload of the attorneys in their jurisdictions.

It's not going to be easy to assign basically, 20... Because I'm going to take Multnomah County, so 27% of the state to each person. But it'll provide some way for us, in addition with getting those caseload reports, for us to know maybe who we should be talking to about do they think they have too many cases.

Thomas M. Christ: Eric, this is Tom Christ. I understand the new contract will pay by the lawyer not by the case. But won't it also say how many cases you're expected to handle or required to handle, in which event it could still be construed as paying by the case because you can take the contract amount and divide it by that case number and view it as the same old system.

Eric Deitrick: Commissioner Christ, I completely agree and that's why the case goal is not a hard goal, nor has it been for the six-month extension. The point of the new contracts

is, what we're really doing is we're buying people's time. We're saying, we're paying you because you're giving 100% of your time to public defense work or you're dedicating 80% of the time to public defense work.

But for our contract analysts who are building these agreements, they did kind rely on historical caseload in deciding who would cover what percentage of the county. So, that is reflected but it's clearly reflected as a target goal and it's a soft target. I can try to find the specific language in the general terms but it states very clearly that money will not be taken away if they do not meet that goal.

It's really important that's in there and it's really important that RPC Rule 1.7 is in there to make that as clear as possible. We do not want you taking cases to satisfy a contract to the extent that you would be taking on too many cases. We want to fund you for your time, and this is how many cases historically you've covered and what we would expect but if you don't make it, that's fine.

Thomas M. Christ: Well, that that all sounds fine and good but suppose we contract with someone for 80% of their time and we're paying for that and then they decide, as I imagine many could decide, that, "I have been taking too many cases in the past and I don't need to do that anymore in order to maintain the same compensation so I'm going to start turning down cases."

And then how do we cover that unassigned workload? I'm not assuming anything nefarious here. They're overworked, many that I've seen and they've been taken too many cases and should be cutting back. So, that's a perfectly reasonable response by them but it seems to me it's going to be the response that a great many people would adopt under this new model and we're going to have cases we can't find lawyers for.

Eric Deitrick: Commissioner Christ, what you're talking about happens with some regularity. Actually, it happened during the legislative session several times, where we had Lane County Public Defenders, Metropolitan, Public Defenders, Multnomah Defenders, I think the group in Washington County, all shut off for periods of time either for all cases or certain cases.

Our agency's response is we have to take steps and our contract analysts take steps to find coverage for those cases. It's often very difficult to find attorneys to take cases because we're frequently reaching to attorneys in other counties, but they have historically done a good job of finding attorneys to take the cases. I think that will continue to be successful.

I don't think it's about us finding the attorneys. It's more about coming up with the money to make sure we can fund those attorneys who we will find. That will

be a challenge but the way I think about this as counsel to the agency is that we cannot put attorneys in a position where they're taking on unethical caseloads.

And to the extent that in good faith we can document and believe that they are in fact, operating with excessive caseloads, that burden switches back to us, the agency, to find counsel for those people. But to summarize my answer to your question, it's a two-piece answer. Is, do we have the funds, and do we have the attorneys? I am confident that our analysts there, with their relationships statewide, will be able to make connections and find attorneys. It will be a question of funding.

Per Ramfjord: Okay, thank you very much, Eric. Thank you, Heather. Appreciate that. I know there are a few questions that have been put into the Q&A room and we will address some of those during the public comments section of the meeting. We will take a 5-minute break now and if everybody can be prepared to start at about 11:15 again, that would be great. We'll do that. Okay, thanks.

[Silence 01:06:46 to 01:12:21]

Per Ramfjord: Hey, I am ready whenever everybody else is. Ernie is up soon, so. All right, thank you everybody. We're now going to move to an interesting topic which is the agency's efforts to address the Ramos decision, which is a monumental change. So, with that, I'll turn it over to Eric and Ernie.

Eric Deitrick: You want to start us off Ernie?

Ernest Lannet: Sure, I will do. Chair Ramfjord, Vice Chair Welch, members of Commission [Inaudible 01:13:28] Criminal Appellate section of the Appellate Division and I was asked to give you an update on our response to Louisiana v the Ramos, the decision that came out back on April 20th. The materials I'll get to that I provided but just to kind of explain how those materials and give them some context. Cert was granted in Ramos back in March of 2019.

The decision that it challenged was decided in 1972. So, this is a precedent that been around for 40 years. It's a kind of perennial issue that had come up at different times, whether jury must be unanimous to convict someone of a felony offense or serious offense. It's one that was decided adversely in Oregon v Apodaca.

There were times that we challenged it to the United States Supreme Court, most recently in 2009, but the court had not been willing to revisit the issue. Louisiana had basically been filing a petition for cert basically, every year and had been denied but when they allowed it in 2019, we knew then that things were changing. We got together with the state.

We have periodic meetings with the Chief Judge of the Court of Appeals and with representatives of the Oregon Supreme Court to talk about systemic issues. It was flagged at those meetings that they were going to be looking for us to kind of come up with a plan and approach. Met with our counterparts at the Department of Justice, and Guttman and Paul Smith and had some conversations about what to do in anticipation if the Court did overrule Apodaca.

Basically, we have been through situations like this before, when the United States Supreme Court has kind of rendered kind of a major decision that has a very systemic change on the law. Most recently, it occurred when Apprendi was decided and there was Oregon v Dilts, which decided about sentencing factors and whether a jury need to define them.

So, we'd been through this exercise before, but it'd been quite a while. We found that the best thing to do is try to come up with a systemic response to try to bring relief to our clients as fast as we can without overburdening the court in a way that actually delays the cases from getting decided. So, pursuant to those talks with the Department of Justice, we decided that if the decision came out in the favor that we wanted, we would be allowing the state three weeks before we kind of jumped on and started filing things and scores of cases and doing additional briefing.

We gave them three weeks to come up with a list on cases that they thought they would need to concede, either in whole or in part. This is where it kind of gets to be a bit of a little bit of appellate law lesson unfortunately. A major component of appellate law is whether an issue was preserved below. So, generally, you don't get relief on appeal unless the same issue was raised to the trial court judge and you get a ruling on it. Like I said, these are... Well, appellate cases move slow for one thing.

So, even at the time that as of right now, the cases that are currently in the appeals, a lot of them, all of them were pretty much not decided until August of 2019. So, we're still getting cases to work on that were decided or the trial court happened before Ramos was decided. And we have cases, like even at the time when we were talking with the state around October and November leading up to the December, most of the cases there, we didn't have any cases that were decided that were in the appellate courts.

All those cases had actually gone to trial before cert was allowed. So, this was definitely an issue that had to be anticipated before then for most of these cases. So, what we have is we gave that time for the state to come up with their list. They got back to us and they flagged a total of 202 cases, 77 in which they were acknowledging that all the verdicts, all the guilty verdicts were non-unanimous

and so it would need to go back in full, and then 125 that they believed that at least some of the convictions were non-unanimous so they would need to go back.

We got that list from them on Monday. Four days later, we were able to vet those cases with our records, our attorneys looking at their caseloads and we were able to actually add 67 more cases to those lists. So, now, there's [Inaudible 01:18:48] that you had. The first of which is [Inaudible 01:18:59] conceding in whole or in part. It's actually broken into four lists.

There are the cases where all the verdicts were non-unanimous and it was raised at the trial court level. Those are preserved and we raised them on appeal and they will just be going back. The second list are cases where it wasn't raised at the trial court level but we did brief that on appeal. So, it was an unpreserved error.

They are acknowledging that it was plain error to give the instruction and receive a non-unanimous verdict. In those types of situations where you have an error that's unpreserved, it actually is a discretionary ruling by the appellate court whether to consider that error and correct it. We anticipate that the court of appeals will decide that this is the type of error that they should correct. So, that's the second list. So, those two first categories are 111 cases.

The second two categories are ones where we have some verdicts that were unanimous and some verdicts that were non-unanimous. There, the state is taking the position that the only error is receiving the non-unanimous verdicts and so only those counts should go back. Those are flagged that they're going to concede in those cases, those issues and we'll have to consult with our clients on how to proceed because... Which brings me to the joint letter that was filed.

The joint letter kind of outlines what are still the two outstanding issues that are going to be litigated in the courts. That is when you have an instruction that a verdict need not be unanimous, that only 10 need to agree but when the jury is polled, it's found that they voted 12-0. We are going to be arguing that the error is in instructing the jury that a verdict can be non-unanimous and it affects the jury's deliberation and cannot be called a harmless error even though a verdict might be unanimous when it's polled.

So, those issues are being flagged for the Oregon Supreme Court. And some cases are identified that raise those issues that we'll be, we anticipate, litigating those issues that will have some effects on cases that are both on those third and fourth categories on the list and on cases that aren't on the list because all the verdicts were unanimous. We also have cases where the issue was raised on appeal for the first time or it was raised at the trial court level and then also, raised on appeal where there was no polling.

So, we have where they objected to the instruction but for some reason, there's no determination about whether the verdict was unanimous or not. That's another outstanding issue that the state's going to argue that those cases do not need to go back. The take away actually, from all this is through this exercise with the Department of Justice and really engaging with them and trying to get these cases as resolved as quickly as we can, that we were able to get, like I said, a list of 269 cases that are both within our office and those that are not within our office, handled by counsel outside of our office that are flagged right now for reversal.

That doesn't mean that they're all going back. Some cases raise additional issues that might give more complete relief like acquittal on some charges. We will be discussing each of these cases with our clients to see how they're perceiving these situations and advising them and following their directive. I'm sure that was a lot of information. I want to take any questions.

Per Ramfjord: That's great. We really appreciate that report and we really appreciate the work that you and your group did in identifying the additional cases that the state had not identified.

Ernest Lannet: Right.

Per Ramfjord: That's something that deserves some praise. Do people have any questions? I mean, this is obviously going to increase, cause some increased workload down the road.

Lisa Ludwig: Yeah, I have two questions.

Per Ramfjord: Okay.

Lisa Ludwig: This is Lisa Ludwig. One, is those four lists, you cut out for a second there when you were talking about them on my feed. So, the four lists where it breaks it down, are those available for us to look at or for practitioners to look at now?

Ernest Lannet: Commissioner Ludwig, thank you for the question. I presented the Commission with the redacted version that it has the actual case numbers but we decided to take off the names of our clients and the names of those defendants that are our clients outside of our office but a copy of that letter was sent to all of the appellate attorneys and that information is being shared, I know, with the trial practitioners.

But it really is, of those four, I guess, to go over those categories [Inaudible 01:24:19] since you said that I cut out. All verdicts were non-unanimous. And basically, the state is conceding to its error and if it's preserved, it definitely needs

to go back. If it's not preserved, they're not taking a real position on whether the court should exercise its discretion to correct the error.

They're saying "Court, if you decide at your discretion to correct, that error does need to go back. So, those first two lists, they're kind of in a different pasture. Then the third and the fourth list is where we have some counts or some factors, aggravating factors on some counts that affect the sentence where there was a non-unanimous verdict on those.

So, the state, in those cases, are saying that plain error occurred when it was non-unanimous on those but they're still not urging the court to, if it doesn't preserve, to correct the error. They're just saying that that's an exercise that the court needs through. So, we'll be working with the state if they don't find cases and making our case when we can that it should be corrected.

Lisa Ludwig: All right. I think you answered both my questions in that answer, thanks.

Ernest Lannet: Thank you.

Per Ramfjord: Okay, thanks. Any other questions, other commissioners? all right, thank you Ernie. Eric, were you going to have further comment on this issue?

Eric Deitrick: Chair Ramfjord, yes. Chair Ramfjord, Vice Chair Welch, members of the Commission. My name is Eric Deitrick. Just to follow up off of Ernie's presentation which is how the Appellate Division has been handling these cases. I was contacted in November by Lewis and Clark professor, Eliza Kaplan, Ryan O'Connor and Jason Weber of the O'Connor Webber Law Firm.

Professor Kaplan has been deeply involved in this unanimous jury issue and O'Connor Weber is the law firm we contract with. They handle most of our post-conviction relief appellate cases. So, they earnestly wanted to start preparing me for what we're going to do following the Ramos decision. This led to a series of meetings in December with us trying to come up with a systemic response to what we are viewing as a potential flood of post-conviction relief claims by people who may or may not even be incarcerated.

There's no limit on people seeking PCR that requires them to be currently incarcerated. We are expecting a host of people to come forward and seek relief for their convictions based on the decision in Ramos. This led to discussions with the Department of Justice and the Oregon Judicial Department as we are hoping to try to come up with some sort of a universal and cohesive response to this so that the litigation can be done somewhat efficiently knowing how many people are going to bring claims forward.

What we have done as an agency is, we have entered into a short-term contract with the Lewis and Clark Justice Reform Clinic to manage what we will...they're calling the Ramos project. Currently, it's a three-month contract. The group, which includes Professor Kaplan, O'Connor Weber and members of their firm, will also include several attorneys that Professor Kaplan will be bringing into the group as well as some law students who will be helping as well.

They will be performing three key functions that I see going forward with the Ramos post-conviction relief litigation. One, is they will be kind of performing the administrative functions. So, everyone who's in custody right now trying to reach out and write letters to get help for post-conviction relief, we are routing all those to her group. She had the PO box set up. They will be doing the outreach that's necessary in response to questions about post-conviction relief.

They'll be helping petitioners file those documents with the court to make sure they're done correctly. They'll kind of be the central point from which all the cases will be held. The second piece they will be doing is the case analysis. What they're going to be doing is going through the cases, looking at the transcripts, looking at the exhibits to see which cases would be the best target lead cases to get these issues in front of the trial courts.

There's multiple buckets of cases and they will be trying to find the best case in those buckets. I should say that you'd think that these would be people filing these claims who went to trial but in course, there's nothing that could procedurally bar someone who asserted they pled guilty based on their attorney's recommendation and information to them that they wouldn't get a unanimous jury verdict.

I have no idea whether these claims will be meritorious, but we expect all sorts of claims to be brought by people. And so, that's the second function that the Ramos project will be involved with, is analyzing those cases. The third piece will actually be the litigation and what is going to happen after the files are built, the cases are analyzed, is that they will keep the Ramos project, the Lewis and Clark Legal Clinic will keep some of the cases but most of the cases will be distributed to other attorneys who are qualified and very interested in doing these PCR trials.

Once they've got the case, they will take the case over. I think what we're going to see is frankly, a little intimidating to me. The trial courts did one jury trial during April. Just looking at recent court data, in 2018, there were 725 felony jury trials in the State of Oregon. Ernie Lannet just sent 269 right back down to the circuit court or is about to, which is basically 40% of what the courts normally see in a year.

And, at the same time, we are going to be seeing all these other additional PCR cases coming into our trial courts. So, I do think it's going to be challenging going forward for the trial courts to adjudicate all these cases and that's part of the reason why we have been reaching out the DOJ and OJD to try to find better ways to work through this going forward.

We do have a meeting tomorrow, Kimberly McCullough, our budget director, Julie and myself, we're meeting with DOJ as we start to discuss how this will impact our agency's costs and how we can present that information to the legislature together jointly. That's all I have. I'm happy to answer any questions.

Kristen Bell: I just have a quick question follow-up about the post-conviction relief. The court, the US Court just granted cert on whether it's retroactive so how is that going to?

Eric Deitrick: Commissioner Bell, thank you for the question. What it's going to do is make all of this very confusing.

Kristen Bell: Right.

Eric Deitrick: Because we still have to operate that this is the current state of the law and that the issue of retroactivity has not been adjudicated.

Kristen Bell: Okay.

Eric Deitrick: And so, these claims will still continue to go forward. I also know that even if the US Supreme Court rules on retroactivity in the next session, there are advocates who still believe that there are issues under Oregon law that they could use to differentiate that issue of retroactivity under our own constitutional principles.

So, it's interesting that, you know, I don't think anyone expected them to decide it in the opinion so that wasn't surprising to me but it sure is the unanswered issue. Frankly, the majority opinion in the case acknowledged that this was going to be problematic in increased costs for both Louisiana and Oregon. So, it's not a secret but it is going to be challenging.

Per Ramfjord: Okay, thanks. Any other questions for Eric? Lane.

Lane Borg: Per, this is Lane. This is a little bit self-congratulatory to the agency but I think it's appropriate. I just want to call out and I hope people see that, and I know you mentioned that briefly with Ernie that that was great work on their part. I think that because of the agency and the relationship we had, we were able to have communications with the Department of Justice to really get, not only have that conversation but also then to advocate and have them accept that to increase the number of cases.

But also, the work that Eric has been doing in conjunction with DOJ, the courts. I mean, everybody has come together and so this is a good example of them working in a way for the benefit of the clients ultimately, in implementation of the Ramos decision.

But it really is a... There's going to be plenty to litigate and there's going to be lots of stuff we disagree with the prosecution on and courts will have to rule but at least getting to this point, I think this has been a good example that the agency and the Commission can, with pride, say this is how we have been cooperating with and advocating within the state for this.

So, I just want to thank both of them at this setting for the work that they've been doing on that. And then finally, on the cost issue, this is as an example, this is the kind of thing, not only we would want to discuss that with the legislature and we're going to cooperate further with DOJ on that, kind of what that costs might be but this is an example of where we would as an agency, go back to the legislature and say this was an unexpected cost.

When we wrote our CSL budget and submitted it in the summer of 2018, we did not know this was going to happen during this biennium. So, we are tracking those costs. We are going to be able to go to the legislature and say, to the extent that there is an increase, a need for the agency attributed to this, that this is how much it is.

Per Ramfjord: All right. Thank you, Lane, for that. Any further comments on this issue before we move on? All right I agree with...that it's great work and I think that that level of cooperation was really something to be praised as well, so good job everybody. Okay, next item...

Mark Hardin: Eric?

Eric Deitrick: Yes.

Mark Hardin: Perhaps I didn't unmute. I meant to ask a question at the end of the prior presentation with regard to contracting. Eric mentioned with the new FTE system, there is increased transparency with regard to compensation. I would like to know and have the information shared with the people on the call.

What information about attorney and organizational compensation will be made public once the contracts have been approved and what information will be public regarding compensation to specific contractors and where would members of the public gain access to that information?

Eric Deitrick: Commissioner Hardin, this is Eric Deitrick. What we will be doing in the contracts is demonstrating with transparency, how much money we are funding them and how much money is available per attorney. But we have to also be mindful of the fact that that funding covers a bunch of stuff including overhead. The overhead costs and the arrangements are different office to office depending upon the region, how they operate, whether they have support staff.

But we are not mandating what they pay individuals in the contract, we're only demonstrating how much is available in the contract. We ask and we will ask them for information on how much they are compensating their attorneys but we've never published that publicly and that would be a new direction for the agency.

Which isn't to say it's not something we couldn't do, it's just nothing we have done before. Our goal right now at least, is to increase the transparency in the contracting process but we're not coming into this contracting period with a goal of micromanaging how they fund their attorneys.

Mark Hardin: Right, understood. So, my question is what information will be publicly available and how would people access it? So, for example, one organization might be getting a different amount per FTE. It would set forth in its proposal and it would be specified in the contract what the expected FTEs will be for the consortium or firm etc. and what the amount given per FTE would be. So, is this information going to be made public and if so, how would people get access to the information if they wanted to know?

Eric Deitrick: Commissioner Hardin, you mean the contract, the value per FTE, how would that be disseminated?

Mark Hardin: Yes, that's right.

Eric Deitrick: Well, we could disseminate it ourselves frankly. I can tell you, we've been a little bit surprised we haven't seen a records request for that information. There was no plan to publish it and I would be hesitant to publish it unless it was something that the Commission really thought was appropriate. And if so, we could certainly make that available.

We could make it available on our website. It would be very easy to publish that information. Because it is something new that we haven't historically done though, I wouldn't want to do it in a surprising fashion. But again, I think that if this Commission thinks that getting that information out there is in the best interest of the public defense community, we could certainly make that happen.

Mark Hardin: Thank you.

Per Ramfjord: Okay. Any other questions? All right, why don't we move on then to investigator rates.

Eric Deitrick: Chair Ramfjord, Vice Chair Welch, members of the Commission, I will be short on this. I didn't have much of a role in this but because it was something that happened legislatively, it was easy for me to put together and present to you. This is an action item. There were materials, I think it's Exhibit 3. It's a straightforward action item. Although we did not get all of the funding we requested in the SPA, we did receive funding, which is detailed in the exhibit, to increase funding for investigators \$6 an hour from \$34 to \$40 an hour.

There was a piece I forgot to mention in that exhibit which is that for bilingual investigators who currently get \$39 an hour, they would be raised to \$45 an hour. That was the funding that was made available to the agency and the Commission to deal with the issue that I know have been on the agenda several times over the last year and a half and definitely needs improvement, the funding level for investigators. So, that is the money that was made available, that was what was recommended by LFO and it is an action item for the Commission.

Per Ramfjord: Okay. Any questions? Okay, Lisa, do you have a question? I see you on video there.

Lisa Ludwig: No, I was just anticipating that we were going to vote.

Per Ramfjord: Okay, all right. In that event, is there a motion?

Lisa Ludwig: I move to approve.

Per Ramfjord: Second?

Thomas M. Christ: I second.

Per Ramfjord: All those in favor.

Male: Aye.

Male: Aye.

Female: Aye.

Per Ramfjord: Any opposed? All right, thank you. The motion passes. All right, we will then move on to the staff update. Lane, are you going to start with that?

Lane Borg: Yeah, I'm going to start and then we'll have...Shannon's going to talk a little bit about what's going on in Appellate Division since Ernie already had a chance to present and Wendy's going to give an update on what we're doing relative to the continuing COVID crisis in terms of how the operation of the office is handling. The thing that I wanted to comment on, and for the record, Lane Borg, Executive Director of The Office of Public Defense Services, goes back a little bit to the exercises we've been doing.

They've been commented on already around cut exercises. Just a couple of perspectives on that. First of all, I want, because there's been a lot of discussion and other questions that have come up within, not just today but within emails and the OSDLA pond, first of all, these are exercises. I know that was said earlier but there has been no direction to us to cut our budgets. So, we have not... It's not that I'm not reading the news and I'm not saying that. I understand that very well could come down and frankly, expecting that something will come down, but at this point, we are trying to be as responsive as we can to exercises.

Things are changing rapidly, it's a very fluid situation. We, as an example, we went through the same exercise that the executive branch was going through on an 8.5% cut but we were directed not to do things that were in the recent E-board and not to do personnel and then found out, after we spent about a week on that, that we weren't actually required to do that.

We've been told that we can include the undistributed portion of the SPA, the 18 or so million dollars between the 20 and the 22 that was not distributed and then as part of our cuts and then told, well, no, maybe we can't do that. So, it's a very, very fluid situation.

I just want to reassure the Commission and the community that, at least our advocacy position within this is to remind people that we are an independent state agency even though we are within the judiciary, we are an independent agency for the very purpose of... The point of independence in Public Defense is it is up to the Commission and up to the agency to implement the expenditures around indigent defense.

This is not... I mean, the legislature obviously can set the budget for us, they can cut us, they can make recommendations about where they think we should cut but ultimately, it's up to the Commission. I am committed to, before we go through that, that this is something that the Commission should be, we should be talking about.

Once we're through contracting in this next month, I'm committed to engaging the Commission on understanding and expressing where our values are at, where we should budget and where we potentially could cut on budgets. I want to

assure people, at least my perspective on it is that practically everything we do is mandated by either statute or Constitution.

As an example, if we were to cut positions in the Appellate Division, it's not like those cases go away, they would simply...that would be cost shifting over to the PSA or public service account to over those cases. I think that we need to kind of keep our head about us, as it were. We need to understand we're in a difficult environment budget-wise, challenging and stressful but so far, everything has been hypothetical.

Everything has been an exercise and we are trying to be a responsible state agency and prepare for that and be responsive to that but there have been no cuts at this point. I also want to give perspective is that when you look, I think people will have noticed that the courts are unilaterally imposing for three furlough days over the next three months.

They're closing the courts one day in May, June and July. We have not matched that at this point. We've not been given other direction to that. We can talk about that if that were to happen. But just so people understand, when OJD furloughs a day, that that achieves a lot more savings than then we would with OPDS. OJD has 2,000 employees, we have less than 100. Department of Justice has over 1,300 employees, we have less than 100.

So, I am very mindful and keep reminding, as Eric Deitrick pointed out earlier, I'm very mindful of the fact that when they talk about cuts potentially, for OPDS and they talk about cutting the PSA, that's people. The way we operate, for good or bad, the way we operate is we contract to the trial level with, it turns out, over a thousand people out there that make their living off of the Office of Public Defense Services doing the good work and the important work that's necessary.

So, I am constantly trying to remind the agency, the people, Julie and others within the agency are constantly reminding the legislature and LFO that PSA is people. It's not like just paper and other supplies that way. Also, I am very mindful, I want people to remember that what we do is mandated. So, like with the Ramos decision, they can cut our budget but we're ultimately, if we have to provide the counsel and provide the representation and we take that to the legislature and demonstrate that, and that's why we mean where we are tracking it as best we can...

And just to reiterate, the last thing I would say is we, I know and believe it's going to be very important that we, as a community and with the Commission, have a conversation in anticipation of what cuts there might be so that we are reflecting as is the obligation of the Commission under the statute and under the

Constitution, that we are making those decisions rather than externally, just having those decisions imposed on us.

Sorry to be a little bit lectury but I just wanted to get those concepts in and assure you that that's kind of where we're at on it. I don't know if anybody had any questions? I'm happy to take them.

Per Ramfjord: Okay, any questions? All right, thanks. Appreciate that, Lane. Okay, Shannon, you ready to go?

Shannon Storey: Yep, yep. Chair Ramfjord, Vice Chair Welch, members of the Commission, my name is Shannon Storey. I'm the Chief Defender of the Juvenile Appellate Section. I'm pleased to report that the Appellate Division has continued to timely file Notices of Appeal, respond to calls from the public and prepare and file appellate briefs throughout the duration of the COVID situation.

More recently, we've worked with the Court of Appeals and the Department of Justice to present oral argument in the Court of Appeals remotely over WebEx. We have additional arguments scheduled for next week and many more on the docket for June and July. Moving forward in this situation, we're monitoring attorney production meeting and with attorneys both individually and team settings over Zoom and in Teams and mooted cases for our oral argument as we always have done.

The challenges of remote work management and oral argument have been and continue to be significant. Nonetheless, in the face of these challenges, I'm very pleased to report that the Appellate Division has continued to provide both, highly efficient and high-quality appellate advocacy for our clients. That is my report, unless anyone has any questions?

Per Ramfjord: Okay. Any questions from anyone? I know it's got to be challenging. I think the whole idea of doing arguments over the Internet has got to be a difficult thing to do as well but how do the people seem to be managing with those, Shannon?

Shannon Storey: It's pretty clunky but we're happy to go forward so we can get the cases under advisement with the court.

Per Ramfjord: Right. Okay. Other questions from anyone? Okay, Wendy, are you ready?

Wendy Heckman: Good morning, Chair Ramfjord, Vice Chair Welch, members of the Commission. This morning I just wanted to give you a brief update. For the record, my name is Wendy Heckman, Human Resources Manager at the Office of Public Defense Services. Our agency is continuing to operate in the COVID 19 environment and in

compliance with the governor's executive order, we implemented a COVID 19 policy on March 16th.

This policy was scheduled to be in effect through May 31st. Given the governor's recent framework for reopening Oregon, the executive team approved extension of that policy this week through the end of July. Good news last night, it was announced that Marion County was approved to enter Phase One of the governor's framework, so we're going to continue to evaluate our policy as Marion County successfully graduates through the phases of that framework.

We'll continue to monitor decisions from the governor's office so we can evaluate our ongoing operational needs. I'd like to thank you for your time and I'm happy to answer any questions that you have.

Per Ramfjord: Okay. People have any questions? All right. Thank you very much, Wendy.

Wendy Heckman: Thank you.

Per Ramfjord: I know that there were a few questions that were not answered earlier. I think it might be good that we could... I was going to say I know there were a few questions that were asked earlier in the process here and perhaps now would be a good time to try to address some of those that were...

Some of them have to do with the contracting process, so I think it may be that... Let me see if I can go to the top of the list here. Okay, why don't we... I think some of these questions are questions that are best addressed to Eric. One question was, when might people be hearing from their analysts regarding their proposals?

Eric Deitrick: Commissioner Ramfjord, Vice Chair Welch, members of the Commission, I would expect very shortly, in the next week or two. If Heather Pate has different information, I would appreciate her jumping on. But we're aware of the urgency of the agency to start making these decisions and I don't expect much delay.

Per Ramfjord: Okay, another question that is sort of in the same area. As to the quarterly caseload audits, how will open cases be considered? This question actually is raised, it's specific to dependency work where much of the volume is open cases rather than the new or closed cases.

Eric Deitrick: Chair Ramfjord, members the Commission, the goal here is to get information about caseloads in the most efficient way we can, given that we don't have a statewide case management system and given our internal limitations. So, we are not going to have a comprehensive way to determine how many open cases an attorney has. I would not be able to, at this time, expect that we can discuss how many attorneys, the cases an attorney has per year.

But what we're left with is trying to develop this as a work in progress by letting people inform us about how many cases they open. Clearly, just because you open a case doesn't mean you're going to keep it. There could be a reason that you have to substitute off of the case for possibly a conflict and clearly, our information by gathering these quarterly reports won't be able to deal with issues like that.

But at least we'll get some information at the start of this new model where we can say, "Well, look, this is how many cases an attorney is at least opening for quarter," and then we should be able to say opening per year. I think we will have some basic information on the form about case type, just so we can kind of differentiate between different types of cases.

So, I would expect we would want the attorneys to let us know if it was a misdemeanor, felony, Measure 11 or a homicide case, whether it was a dependency parent or a dependency child, whether it was a delinquency case. But nothing more complex than that at this point in time as we try to figure out going forward how we can get better data to the legislature.

Per Ramfjord: Okay, thank you. Another question that came up relating the contracting was whether or not OPDS would be implementing any kind of monitoring for the quality of representation or the level of attention given to each case especially as regards juvenile cases.

Eric Deitrick: Chair Ramfjord, I can't speak to specifics for juvenile cases right now. With the additional Deputy General Counsel position, we were funded for that we will be posting, we will be able to do some minimal oversight by forming relationships with jurisdictions, traveling to those jurisdictions with the contract analysts observing court, interviewing stakeholders, etc.

I think we can get some quality assurance that way across the board but we just aren't going to have the staffing or the infrastructure to do a deep dive into quality oversight of this piece. Just getting some basic information about cases opened is an improvement from what we already have. We do intend to, like I say, form more cohesive relationships and get into the jurisdictions more.

But aside from that, this will... The Quality Assurance piece, given that we didn't get everything we wanted with the SPA, is going to be a piecemeal at the beginning as we try to build it going forward.

Per Ramfjord: Another question that has come up and this is something we've discussed in various other meetings is, what really will constitute a case? Is it going to be

guided by the level of the defense, the number of counts, incident dates or something different?

Eric Deitrick: Chair Ramfjord, that is an important question under a case credit model where the payment is contingent upon the case. As we move toward this FTE model, the short answer is I don't think we've determined an answer to that question yet but I also think that the question becomes less important and less relevant as we move away from the case credit model. Because as we move towards funding people for their time, I mean, certainly we'll have expectations and limits on caseloads.

That's the goal but those limits are our limits not to exceed. They're not necessarily target limits. When you adopt a caseload standard, what you're really saying is you don't want anyone to take more than these cases. You're not necessarily saying they have to take this number of cases. So, that task of figuring out, well, this indictment has four incident dates, is it one case or four cases?

I just think that's the type of question that loses its import when we're funding you for your time. So, we will at some point when we have caseload standards, certainly have to adopt a definition of a case. I'm presuming this is the type of issue we're going to take input from the public defense community on. But I also wanted to say I don't think it's the most important question for an FTE model.

Per Ramfjord: Okay. Another question relating to the contract and sort of relates to how do you deal with individuals who are sort of acting as a solo practitioner and who have to employ staff or pay dues and have a salary for themselves? Is that going to be dealt with and how are we going to get compensation up to an appropriate level if the status quo right now is inadequate?

Eric Deitrick: Commissioner Ramfjord, for right now, if we have a solo provider under contract, it is our goal to fund them in a way that includes compensation for their overhead and additional expenses and to the extent that we are not, they should be having those conversations with the contract analyst because they're the ones that will be gathering that information and presenting it to the rest of the agency. I hope that's a satisfactory answer. I'm not sure that it is but.

Per Ramfjord: Yeah, I think that's right. I mean, I think that while we've been talking about this all along, the goal has been to actually ensure that there is better funding available for staffing so that people can be spending more time on the work that they need to do and the work that I've seen with the staff has really shown that the funding models are based on having staffing available to do that.

So, I think that that's fair to say and obviously, in terms of going forward, we're doing everything we can to ensure that compensation gets to a level that is

appropriate over time. Let me just look at other questions here. One of the questions that arose had to do with... Almost all the questions seem to be for you.

One of the questions had to do with the issue of PCR relief for clients who feel like they want to get some relief on this and providers are being contacted by old clients and wondering who they should refer to those old clients to. Should they go to the Lewis and Clark clinic or to others?

Eric Deitrick: Chair Ramfjord, that's actually important because I have a feeling a ton of attorney statewide are getting contacted by former clients. They can either contact Professor Kaplan directly. Maybe what I can do is work with Kimberly after this meeting to get a message out to all the providers with that specific contact information. If they contact me directly, I'm going to refer them to Professor Kaplan anyway but that is the gathering point for Ramos related information and that's who they should be referring it to.

Per Ramfjord: Okay. Another question is, is there going to be timekeeping under the new contracting model?

Eric Deitrick: No, we're not there yet, Chair Ramfjord. We don't have the infrastructure to. Even if they, if folks kept time, we wouldn't realistically be able to look at it at all. So, for this contracting cycle, no.

Per Ramfjord: Okay. Another contracting related question is, when providers can expect responses to the RFPs that were submitted earlier this year?

Eric Deitrick: I would defer to Heather Pate on that issue.

Heather Pate: Contracts, analysts are working through their respective counties and their providers. They'll get to you. I mean, within the next week, we know need to get these contracts done by the end of June for the most part. So, they're working towards getting in touch with everybody and starting those conversations as soon as possible.

Per Ramfjord: Okay. Thank you. I don't know if there's... I've tried to capture... Some of the questions were overlapping. I've tried to capture, I think most of the questions have been raised. If there are other people who have access to the questions who feel if there's anything that's been missed, I'd say go ahead and ask. Okay, thank you. Go ahead, yes.

Kimberly McCullough: Per, it's Kimberly. I do see a question here. The question is, how has OPDS' contracting changes addressed the Sixth Amendment concerns regarding juvenile representation that were highlighted in both the report and the Oregonians series two years ago? If you'd like I can take a shot at that answer.

Per Ramfjord: Sure, that would be great.

Kimberly McCullough: Yeah, I mean I think that there are a number of concerns that were raised in the Sixth Amendment Center report as it relates to all aspects of our system, including the juvenile system. We have been advocating, because of that, for system change and for increased funding. I think there are some things that we have done to improve things, expanding the Parent Child Representation Program is a piece of that but there is much, much more work that is needed to be done.

I think that the unfortunate thing about COVID is that it has slowed and delayed our ability to implement changes in response to the Sixth Amendment Center report. The governor's office was set to convene a task force to discuss system changes and to hopefully, have some legislation next session and that has stalled.

We will all be convening stakeholders to discuss system change but we don't anticipate that the legislature is going to have an appetite for system change or the funding to be able to make those changes for some time. So, I think what that unfortunately means is that there are things that have been raised in the Sixth Amendment Center report that it's going to take more time to address but that's something we're committed to doing as I know the Commission is. So, we'll continue to try to at least move ourselves in that direction.

Per Ramfjord: Okay, thank you. I did note one other question for Eric as well which is, when the investigator rate increases will be implemented? And I see that that is immediately, starting tomorrow. Do you want to elaborate on that answer, Eric?

Eric Deitrick: Yeah, Chair Ramfjord, I do. So, because the Commission approved the changes, they will take place immediately. But I did want to point out that it will be for NRE requests going forward. So, for today and going forward, when you submit a request for an investigator, you can use the new rate. We are not going to be revisiting old NREs that have been previously authorized. It will be for new NREs going forward.

Per Ramfjord: Okay, thank you. Anything else from other members of the Commission or other staff members who noted questions that came in from the public that we want to respond to? Okay, thank you then. I think that that concludes the regular business for the meeting today. We do need to go into executive session. Eric, I think you have the script for going into executive session, which I don't have in front of me right now. If you can read that, that'd be great.

Eric Deitrick: Sure. The Public Defense Services Commission will now meet in executive session for the purpose of renewing contract proposals to provide public defense legal services beginning on July 1st, 2020. The executive session is being held pursuant

to ORS 192.6602(f), which permits the Commission to meet in executive session to consider information and records that are exempt by law from public inspection.

Under the terms of the OPDS request for proposals, contract proposals will remain confidential and thus, exempt from public inspection until a decision is made to award a contract. Representatives of the news media and designated staff shall be allowed to attend the executive session, but they cannot record the contents of the executive session. Members of the press are prohibited from reporting on any information in the executive session relating to the Public Defense contracts under consideration.

Per Ramfjord:

Okay, thank you. So, are we, just as a matter of logistical clarification, are we going to be circling into another invite for the executive session? Correct, okay. All right. Okay, so with that, we'll conclude our regular business for today. Thank you again to everybody who's participated. I recognize that this process is, to use that technical term that Shannon used about oral arguments over the web, clunky and I apologize for that.

We're trying to keep everybody safe. We're trying to keep the process moving on the meetings at the same time and we'll work toward doing it more and more seamlessly over time hopefully. And hopefully, this won't last forever. So, I wish everybody to stay safe, stay healthy and we look forward to seeing you at the next meeting. We'll now end the current meeting and go into executive session. Thank you.

Attachment 2

CHUG – May 27, 2020

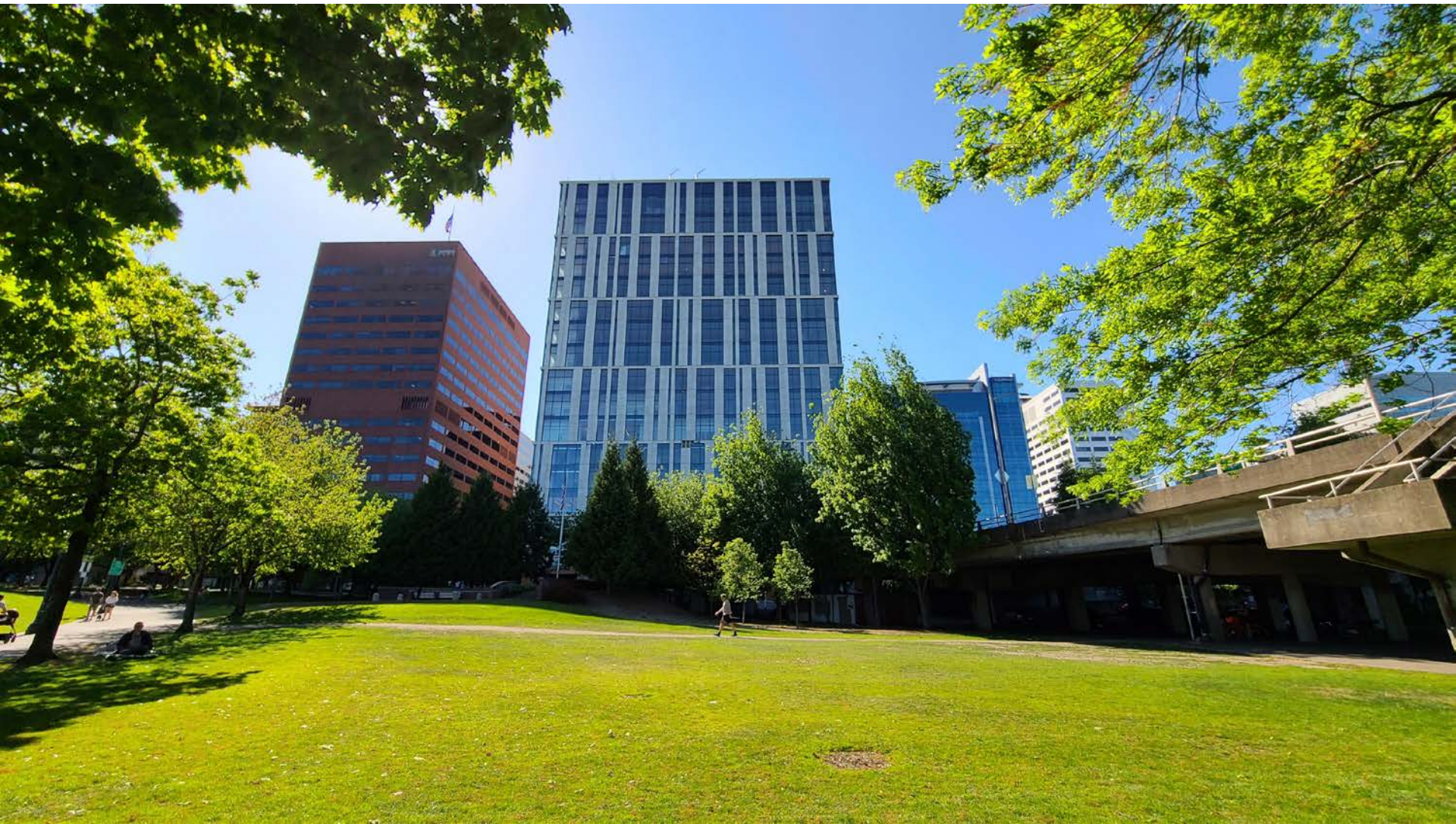


Construction Status

- Level 17 wrapping up
- Façade: stone installation ongoing
- Jefferson Station: complete
- Frontage Improvements on-going
- Furniture install mostly complete 2 thru 16



View for Riverfront Park



Outside Lobby



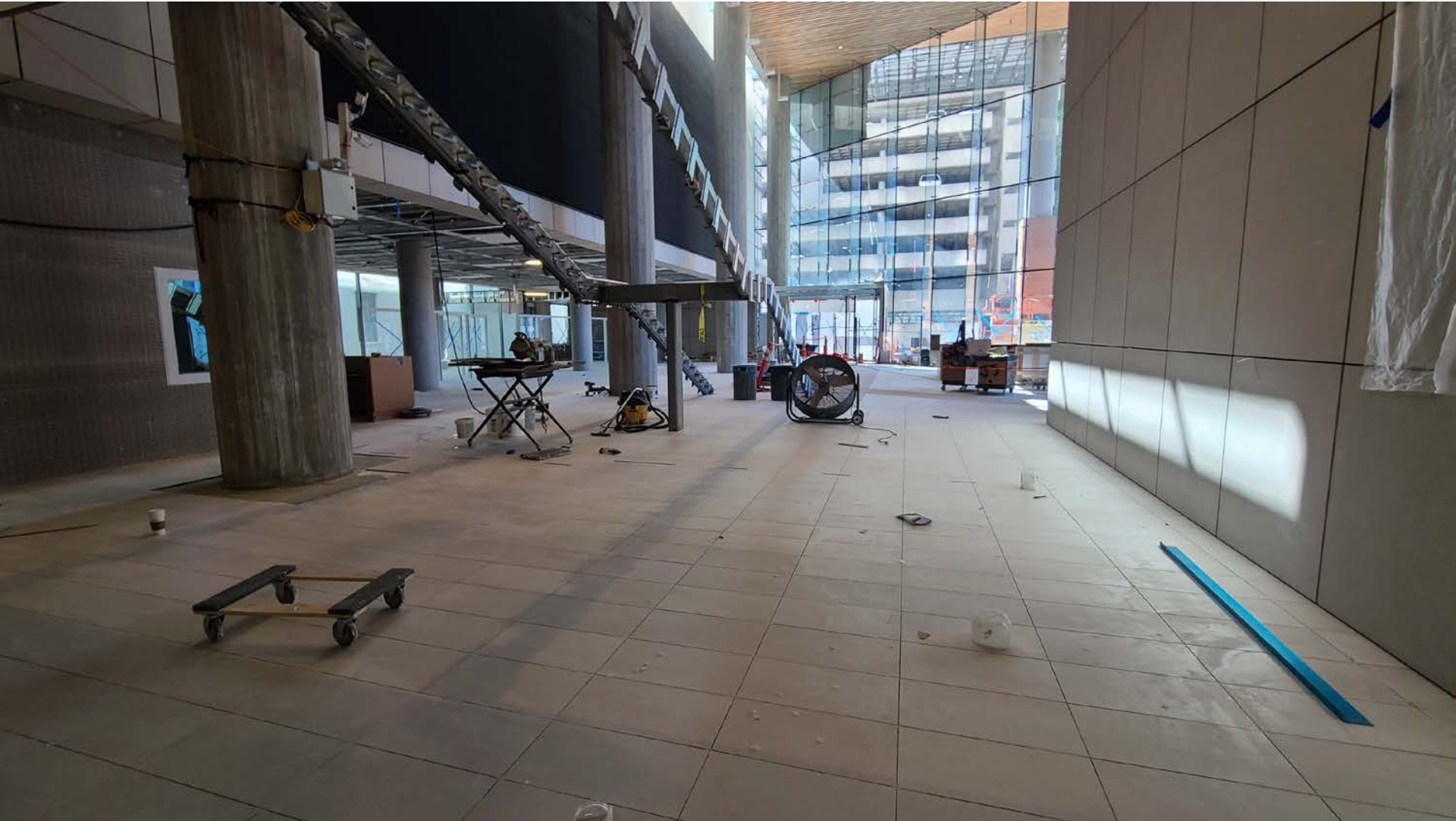
Lobby Entry



Lobby



Lobby



2nd Floor



Cafe



Cafe



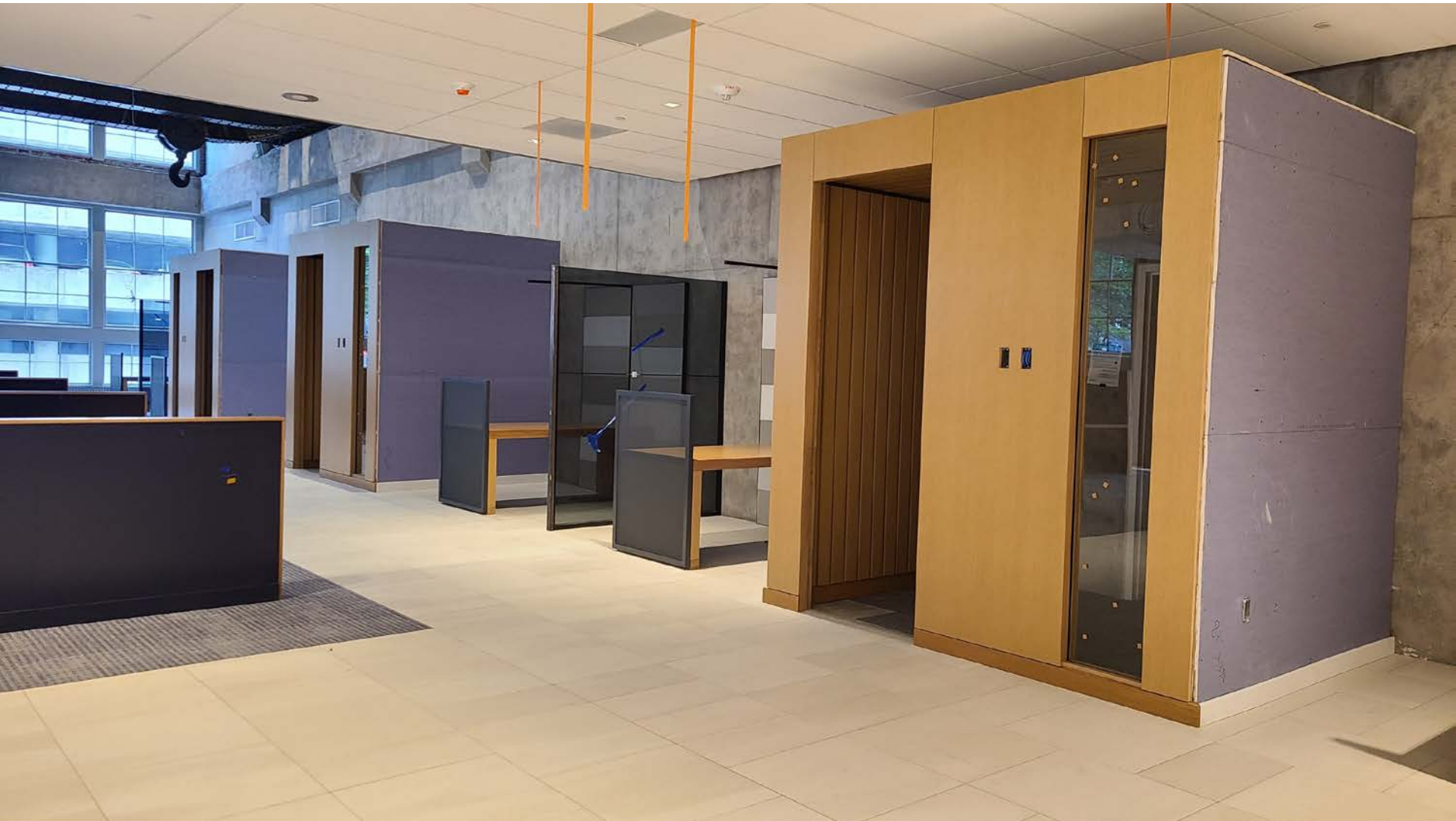
Jefferson Station



High volume courts waiting area



Jefferson Station



DA's Offices 6th Floor



Victims Lounge



Court Floor Docket Monitor





Courtroom Monitors



Courtroom

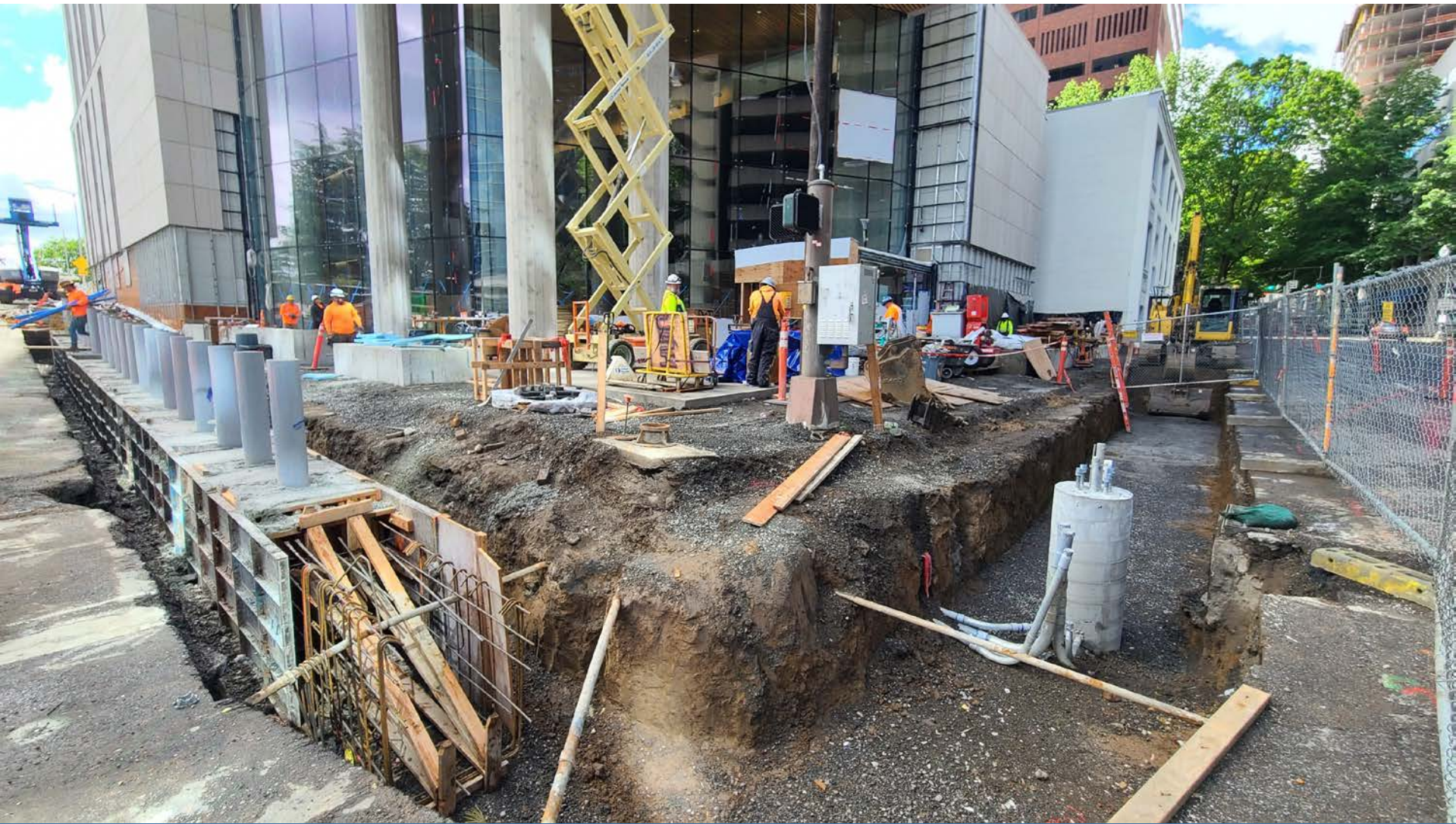


Courtroom



Frontage improvements





Attachment 3



Oregon

Office of Public Defense Services

198 Commercial St. SE, Suite #205

Salem, Oregon 97301

Telephone: (503) 378-3349

FAX (503) 378-4463

www.opd.state.or.us

To: Public Defense Services Commission
Lane Borg, Director

From: Keren Farkas, OPDS PCRCP Manager

RE: Parent Child Representation Program (PCRCP) Contracts in Multnomah County

Date: June 4, 2020

Proposed Motion: I move to approve the proposed PCRCP Contracts in Multnomah County.

Overview of the Issue: Pursuant to HB 5050 (2019), OPDS has been working to implement the Parent Child Representation Program (PCRCP) in Multnomah County. On January 31, 2020, OPDS issued a Request for Proposals (RFP). Although initially due on March 20, 2020, the deadline was extended to March 30, 2020 in light of the then-new COVID-19 shelter-in-place orders and impact.

Following a deliberate internal review and assessment of the submitted proposals, OPDS has offered contracts to seven public defense providers who will collectively provide 38 Full-Time Equivalent (FTE) PCRCP Attorneys in Multnomah County. Each of the entities were offered additional compensation to cover administration/supervision responsibilities. OPDS has also offered contracts to three public defense providers and six independent case manager providers to collectively provide 12 FTE PCRCP Case Managers in Multnomah County.

We applied a uniform and consistent method to funding attorneys, case managers and administration/supervision. All providers were offered the same base rate for full-time (.8 or higher) case carrying attorneys and their corresponding staff. Using an informed working model, providers were offered additional compensation to meet the various administration and supervision responsibilities.¹ All providers that proposed in-house Case Managers to develop the institutional interdisciplinary representation model were provided equal compensation for that resource.

We anticipate that Multnomah PCRCP contractors will experience a transition period as their caseloads lower to meet the PCRCP caseload expectations. OPDS will be closely monitoring caseloads and respond as needed, including intentionally staffing pick-up schedules and potentially adding capacity.

¹ Informed by national and regional best practices, OPDS developed a working model to fund the additional resources required for adequate administration/supervision. For the first 18 months, providers were offered additional compensation to meet the following rubric: (1) Consortiums – 4 % of FTE Attorney Rate (excluding overhead), (2) Small Law Firms – 15% case load reduction, (3) Organizations – 1:7 Attorney: Supervisor/Administrator ratio.

	Attorney FTE	Staff FTE	Case Manager FTE	Administration/ Supervision Value	Total Case Manager Value	Total Contract Value
Portland Juvenile Defenders, Inc	7.5	7.5		\$87,233		\$2,817,480
Riley & Washchuk, PC	3.85	3.85		\$42,170		\$1,450,830
Sage Legal Center	2.55	2.55		\$42,170		\$982,454
Youth, Rights & Justice	10.8	10.8		\$417,960	\$246,759	\$4,338,835
Metropolitan Public Defender	7	7	2	\$281,138	\$246,759	\$2,822,621
Multnomah Defenders, Inc.	3.6	3.6	1	\$120,488	\$123,380	\$1,427,536

Please see message below

Background on PCR² – The PCR Is currently operating in five counties. Since implementation in 2014, the PCR has aimed to enhance the quality of representation of parents and children in juvenile court and, in turn, improve outcomes for families and children in the dependency and delinquency systems. PCR's design, largely premised on Washington state's model of interdisciplinary Parent Representation (PRP), utilizes proven indicators of high quality defense – including reduced caseloads (limited to 80 open cases), case manager social work intervention integrated into the defense team, and additional training and oversight - to serve parents in dependency and TPR proceedings.²

OPDS' PCR has demonstrated positive results, most notably expediting family reunification and reducing time spent in foster care, and garnered broad stakeholder support. Like Washington's PRP, OPDS hopes continued anecdotal and data-demonstrated benefits of PCR will garner the needed support to expand PCR to all Oregon counties.

Agency recommendation: OPDS recommends the PDSC approve the proposed Multnomah PCR Contracts.

² The PRP has undergone several evaluations establishing its validity of design and since 2000, the model has expanded to nearly all Washington state counties.

*This table was updated on 06/10/2020 but does not represent the full distribution of FTE as we are still awaiting responses on some contract offers.

Attachment 4



Oregon

Office of Public Defense Services

1175 Court Street NE
Salem, Oregon 97301-4030
Telephone: (503) 378-3349
Fax: (503) 378-4463
www.oregon.gov/opds

Date: June 4, 2020

To: Public Defense Services Commission

From: Lane Borg, Director OPDS

RE: Non-Contract Attorney Hourly Rate

Proposed Motion: Move to approve the non-contract attorney rate of \$75 per hour beginning July 1, 2020

Overview of the Issue: The request to increase non-contract attorney rates is related to conflict cases. Recently the agency has had trouble finding adequate attorney coverage for conflict cases around the state. This has been mitigated by allowing the non-contract rate to go to \$75 to obtain an attorney.

Agency Recommendation: OPDS is recommending to PDSC that the payment policy Exhibit 2, Schedule of Guideline Amounts be amended for the non-contract, non-capital hourly attorney rate to \$75 an hour from \$55 an hour.