

Judge Michael Greenlick: A lot of these folks lose pigmentation in their skin. They look like ghosts. They look like they're at significant risk of dying, and they are just so sick, and a lot of times they're kind of begging for help. We release these people, and this is a regular occurrence every day in our community. We release these people because they have no lawyer. OPDC has done a great job in our county funding case managers and social workers to work with people, and when I've handled release hearings where those folks got their hooks into one of these cases, it's amazing. They've got a big plan. It oftentimes works. It sets the person up for not only getting released, but also sets them up for a favorable negotiation, sets them up for getting stable in the community and getting their life back together.

But we release people with no resources, really, because our judges have taken the position, shouldn't even be setting conditions of release, given the constitutional issues, and tell them to come back in six weeks. Many fail to appear, resulting in a bench warrant, like I mentioned before. If they do come back, there's still no lawyer. There's communication in the community about people who hang out stealing cars all the time, and they get the impression that nothing's going to happen because there's no lawyer, and they steal more cars, and they just keep doing it until we finally get a lawyer. If that didn't happen, if we had the social worker, they'd have a significant chance of getting into one of our treatment courts, into our justice reinvestment court, or into our mental health court at that point. But if there's no lawyer available, and they keep committing more offenses, these almost always are presumptive prison cases, which means that they're going to prison, essentially, unless the DA agrees to some other sentence. And they've mostly had a pretty consistent policy over the years that if you keep committing crimes and have multiple stolen car cases, for example, they're not going to agree to probation. So, it's just this tragedy we see every day, we see this suffering, and we also see the impact it has on the community.

So, there is one case we pulled where a defendant was arrested on November 2nd on unauthorized use of a vehicle, possession of a stolen vehicle, a felony elude, and a reckless driving. There was a probable cause affidavit where the vehicle... The police now know everybody's going to run, and the reason they run is because they know the police will call off the chase. And the more recklessly they drive, I mean, people talk about this, defendants talk about this. And so a high percentage of people take off at a high rate of speed, putting the whole community at risk. The police know this, and so they've developed these spike strips they put out in front of the car so they can't go very far.

Well, there was a case where someone was arraigned on November 2nd, and the probable cause affidavit indicates they were driving extremely recklessly, even after getting one of their tires blown out, and they blew through a stop sign or a red light, and it could have easily caused a significant problem in the community. They were found with multiple keys on multiple key rings, fentanyl on their person and in their car, and a false identification. That person was released on November 2nd because there was no lawyer. On December 16th, about five weeks later, the person got picked up on a new unauthorized use of a vehicle case and a possession of a stolen vehicle case, no lawyer, they were released. On January 26th, about six weeks later, that person was arrested on a new unauthorized use of a vehicle case, a possession of a stolen vehicle case. Finally, a lawyer was appointed. The person's in bench warrant status now. I can tell you from my months and weeks and years on the bench, it's very likely that that case, if they're solid cases that the state can prove, it's very likely that person's going to prison. And I've seen people say, stand in court before, like prison, they just need treatment. And it's true. But if they don't get treatment at a time they're out of control, they're going to prison.

There's two victims in those cases, and these are real victims whose cars have been trashed typically, who might not be able to get to work, who might have comprehensive insurance because they tend to steal cars not worth very much, the folks that are doing this. That's possibly happened because there was no lawyer. Another example we found, a person was arrested on January 11th, 2023, on unauthorized use of a vehicle, possession of a stolen vehicle, released because there was no lawyer. He came back to court a couple times and eventually a bench warrant was issued. On 12-27-23, nine months later, the person was arrested on unauthorized use of a vehicle, possession of a vehicle, reckless driving, and elude and escape. That case came inches away from T-boning another car during their elude when they were driving a high rate of speed. Just a random person driving down the street could have been killed. No lawyer was available. That person was released.

On February 2nd, 2024, about three and a half months later, a person arrested on another unauthorized use of a vehicle and a possession of a stolen vehicle, and no lawyer was available. That person was released and they're currently in bench warrant status. There's another example I have right here I'm not going to go into because of the time where this happened four times. Serious charges, picked up, no lawyer available. We're not cherry picking these. This happens every day in our county, and it is so difficult. Mr. Harvey, I'm sorry. I wasn't looking at the screen, so I missed your hand being raised there. Did you have a question?

Alton Harvey, Jr.:

I mean, it's more a statement and I don't know who the question would be posed to, whether it be you or Jessica, but one thing I want to say is this is why I've always said that we need to, as an organization, look to having mentors become a part of OPDC, OPDS, for the same reasons that the judge was talking about with the case management and things like that, being a part of the organization. The other question... And I think that would really, really help alleviate some of the stuff that the lawyers are having to do as well as case management who doesn't have that experience, especially with the crisis being so, like, it's crazy out there right now. And someone that's been through it would certainly be able to connect enough to have a defendant or someone being charged at least show back up to court. That's one point I want to make.

Another point I want to make is, or question, and I'm asking this because it happened to me specifically. I failed to appear, after being appointed a public defender, I failed to appear on numerous occasions. When I finally was arrested on the last bench warrant and went before the judge, the judge was so frustrated that she wouldn't even appoint me another public defender. I essentially had to represent myself and she set the case the same day because she was so frustrated that I failed to appear so many times. My question is, is it unconstitutional for an attorney to be unappointed after, I don't know, whatever amount of FTAs, or on the flip side of that, is there some way that if that's not the case, we can adjust it to where if they fail to appear once, they reassign the attorney to another case. I don't know. I'm reaching for, I guess, a quick bad-day type solution, but I don't know, is that a question that you can answer, Jessica, or that you can answer, Judge? I don't know. I'm brainstorming, hearing what the judge said.

Judge Michael Greenlick:

First of all, I totally agree with you on the mentor thing. And I said it and I meant it, in our STAR Court program, we had a lot of moving parts, a lot of people in the team. I thought our mentors were the most important part of the program, quite frankly. In my view, it's entirely unconstitutional to take somebody's lawyers away because they didn't show up for court. You can take a lawyer away in a couple limited circumstances. One, if they keep sabotaging the relationship, and they keep forcing their lawyer off the case. And after giving them a warning that that would be considered a waiver of counsel, you can do it then. But unless they explicitly or implicitly waive the right to counsel, you got to give them a lawyer. Anyway, I'd be happy to answer, or Barb would, any other questions. We had this moment when I talked to you folks for five minutes during the public comment part a few months ago, where Commissioner Nash reminded me it was a problem that deserves a long-term solution. I think there needs to be a sense of urgency communicated, and I think we're moving in that direction. It's a long-term

solution that also needs a short-term fix. And I know it'll be less efficient, cost more money to get lawyers in the short term under a system that's not organized, maybe through a public defender office, but that's my view on it anyway. Commissioner Prozanski or Senator Prozanski?

Sen. Floyd Prozanski: Yeah. Thank you, Judge Greenlick. I wanted to follow up on your presentation. I was curious as to when you were going through the priorities, specifically you stated those were really felonies that you're looking at. And then at the end, you did cover some of the issues around the misdemeanors. Knowing Class A misdemeanors, some are very serious type of offenses, such as DUII, I understand that the Police Bureau is getting ready or has started redoing their traffic cases. So, the question really is just the bandwidth of attorneys able to do those cases, and has it been the practice because of, let's say, the perceived seriousness of a Class C felony over a Class A misdemeanor that those attorneys are being limited to the C felonies and not being placed on these Class A misdemeanors?

Judge Michael Greenlick: So, I'm not entirely sure. I think I lost track of the question there at some point, Senator. But I think if you're saying should we be moving more of our misdemeanor capacity up into felonies, so we have more coverage there? Is that...?

Sen. Floyd Prozanski: No. I guess, Judge, what I'm trying to figure out is if the court's making a determination that since we have only a limited number of attorneys, we're not even going to worry about the Class A or the misdemeanors as much just because they're perceived to not be as serious, even though you and I both know in the Class A misdemeanors, there are some significant crimes there.

Judge Michael Greenlick: So, it's been my experience in the last six months or so that we've mostly had enough lawyers to do the misdemeanors, and we mostly have those covered. Last year, we weren't. It's getting to be a problem again. We were mostly getting them covered because Metropolitan Public Defender had so many misdemeanor lawyers that came on with that money that the Legislature approved. And so they brought on a bunch of lawyers, and they were giving them the experience they needed to eventually do felonies. So, we had a lot of lawyers. We mostly had our misdemeanor dockets covered. Last year, when we didn't have them covered, and I anticipate later this year, when we won't have them covered, we will be looking at them every day, looking at the dockets and say, "DUII, lawyer. Theft three, no lawyer." And so we will be prioritizing based on seriousness of those misdemeanors.

Sen. Floyd Prozanski: Thank you.

Chair Jennifer Nash: All right. Well, thank you very much, Judge Greenlick. I will say, well, we appreciate very much you coming and talking with us, and this situation with the unrepresented persons crisis is the biggest priority and the single biggest issue that faces the commission, and you're right to identify that we need to operate with a sense of urgency, and we also need to have a long-term plan. And so we're trying to have a foot in both camps and march on two different paths, which really ultimately converge into the same place. But it's been a challenge, and we recognize the difficulties with the situation every day that you face. I will say that when I first joined the commission in August of 2022, I had months and months of sleepless nights, just couldn't believe we were in the situation we were in, and my first thought was if we just had enough money, we could solve the problem. And then I realized very quickly that would help a lot, but that wasn't really going to fix it. So, the commission has been working very, very hard to try to address the issues, and we really appreciate your perspective and telling us what life looks like every day for you. And we hope that you will continue to provide us with information so that we can stay focused and so that we can know what might be most helpful for you.

Judge Michael Greenlick: Thank you, Commissioner Nash. Thank you to the rest of the commissioners. And we always have an open invitation to come watch our arraignment courts or any other hearing you want to watch, obviously. If you do wish to watch arraignment courts, let me know, and we'll make sure we have somebody there who can answer questions and give you the documents, so you understand the cases that are being called. All right.

Chair Jennifer Nash: Well, thank you.

Judge Michael Greenlick: Thanks very much.

Chair Jennifer Nash: Thank you. All right. And Mr. Lannet and Ms. Storey, I'm very sorry. I know you're traveling and you're in a different time zone and we're running about, as you can see, 15 minutes behind consistently today, but I appreciate your time and flexibility. And with that, we look forward to your appellate update.

Ernie Lannet: Thank you, Chair Nash, the rest of the commissioners. Director Kampfe asked us to introduce ourselves and the Appellate Division to the new commission. We haven't had a chance to appear before you. We have a history of kind of showing up at commission meetings and talking about some recent decisions that have been made, but we're taking a bit of a different approach and we'll be just giving you a presentation kind of trying to explain our part of the agency. As I said, my name is Ernie Lannet, Ernest Lannet, and I joined the agency in 2003. I've been in management for about

14 years and the chief defender of the Criminal Appellate Section the last 9 years.

Shannon Storey: And my name is Shannon Storey, I joined the agency in 2003 as well, and I've been the chief defender of the Juvenile Appellate Section for the past nine years.

Ernie Lannet: So, who we are.

Shannon Storey: So, we are a law firm of 46 attorneys and 12 support staff. And we're the counterpart to the Oregon Department of Justice's Appellate Division. So, we're always litigating against the attorney general's office and Oregon appellate courts.

Ernie Lannet: Just historically, we were about half or the majority of the agency. That's changed quite a bit recently. But the appellate division has two sections. One's the Criminal Appellate Section. As the chief defender, I'm supported by three chief deputy defenders to manage that portion of the division. We have 34 deputy defenders and senior deputy defenders, and we're supported by 9 legal secretaries, a paralegal, and an intake clerk.

Shannon Storey: And in the Juvenile Appellate Section, we have seven deputy and senior deputy defenders, an executive assistant who supports both me and Ernie, and then a paralegal.

Ernie Lannet: So, just a little bit of background. The Criminal Appellate Section actually has been in existence in one form or another for 60 years. So, it started with a two-attorney state public defender and deputy office, and first was just representing people in state custody in the only correctional institution that existed at that time. Over time, we grew, started representing people who have been convicted of misdemeanors. And now in our current state, as we said, we have 38 attorneys that now are part of the Appellate Division. So, just our slides are going to have a lot of information. We'll be giving the slides and making part of the materials to see later, but we'll try to get through these.

Shannon Storey: Right. And so in 2007, the Legislature funded four appellate attorney positions in the Appellate Division to provide representation in juvenile appeals. And the idea, as I understand it, was that there are concerns from both the bar and the Secretary of State's office and others about the quality of practice. And the Legislature envisioned a practice of appellate attorneys precipitating a body of case law that would give clear guidance to trial attorneys and trial courts about how to apply the juvenile code, which then in turn would improve trial-level practice and outcomes for Oregon families.

And I think we've accomplished that. We can see that in the 10 years immediately preceding the formation of the Juvenile Appellate Section, the Court of Appeals issued 30 opinions in underlying juvenile dependency cases. And in the 10 years following the Appellate Division getting situated and up and running, 2009 through 2018, the Court of Appeals issued 211 precedential opinions.

Ernie Lannet:

So, one of the things we wanted to highlight for you is just the personnel we have, and our support staff here shows you, this graph is intended to show you, that we have very experienced support staff members. And as you can see, many have been with us for 15 years or longer. And then also our attorneys. One thing that we've been able to do is retain talented attorneys. It's a very specialized and yet diverse legal practice area doing both appeals and also criminal law or juvenile dependency or delinquency. It's a broad range of issues that can come before you, and yet it's subject to a lot of rules. So, we have I'd like to say career launching and working career employees. Over half of our attorneys have been with us for more than 10 years, but we also have attorneys that move on to do private practice and take contracts to do representation. We've had attorneys who have left and joined the circuit court bench and onto the Court of Appeals. We have two of the justices of the Supreme Court actually were in our office at one point. And I think part of the reason that we are able to have our attorneys stay especially recently is that we've been given competitive salaries with the Oregon Department of Justice. And just saying that as something that we wanted to highlight is important for the entire defense community.

Shannon Storey:

And who are our clients? Our clients are anyone who's unable to afford counsel. So, in any of the case types that we represent, so criminal defendants, probationers, those appealing orders of the Board of Parole, and then of course, parents on direct appeal from juvenile dependency and termination of criminal rights cases. And then more recently that our two units have been collaborating, we have a juvenile delinquency team where we're able to draw on the strength and specialty of both sides of the office in litigating juvenile delinquency appeals.

Ernie Lannet:

And just wanted to make note here that other case types, we don't do post-conviction relief or post-conviction relief appeals. So, just that's one thing that often is assumed that we might be involved in, but we're not. So, what's at stake in our cases? Our client's liberty interests obviously is the most important thing. We represent individuals where they're trying to get them the appellate relief that they're entitled to. Any kind of delay in the process is time that they're either on supervision or incarcerated they shouldn't or being separated from their children that they shouldn't. But another aspect of what's at stake in these cases is that what the appellate

courts say have statewide application for all Oregonians in all future cases. Doctrine of stare decisis where once a decision of law is made, it shouldn't be disturbed without the party trying to disturb it bring a very strong case that it was a wrongly decided precedent of law.

And then also just the notion that opinions from a higher court are binding precedent on lower court. So, if the Court of Appeals, it says something in a precedent [Phonetic 00:23:22] opinion, the circuit courts are bound to follow that or subject to be reversed for error. There's an exception right now for a new Court of Appeals practice of issuing non-precedential memorandum of opinions, so we just wanted to note that. Here, I wanted to give you just a small sample of some of the kind of cases that come out of our office, where the court is asked to make pretty weighty announcements and rules of law, State versus Arreola-Botello. The Oregon Supreme Court basically said when a non-criminal traffic violation and stop is going on, that the officers cannot engage in investigative activities. So, ask about other possible criminal activities from the passengers or the driver unless they have some justification, a reasonable suspicion, so just some kind of articulable basis to do that.

Another type of case is in State v. Curry and State v. McWoods, we had basically Batson challenges in cases, and the Court of Appeals in those cases kind of went through the comparative analysis of the reasons given to strike. In both these cases, there are black jurors, and looked at the non-black jurors that were not struck, that could have been struck for the same reasons and decided that the explanations should not have been deferred to and entitled our clients to a new trial. Finally, last two, Mansor and Turay, dealing with the realm of digital data searches with search warrants and just how different that is than search warrants for physical spaces and for physical items, and kind of going into what kind of needs to be explained in the affidavit and the search warrant in particular. So, those are just kind of a small section.

Shannon Storey:

And then for the Juvenile Appellate Section, we have Department of Human Services v. J.R.F. In this case, it's sort of a foundational opinion. The holding is that the statute 0904 [Phonetic 00:25:45] requires Oregon courts to construe and apply all provisions of the dependency and termination of parental rights code to give effect to parents' due process rights. And that's a big deal because it means that in interpreting statutes and when we're litigating the interpretation of statutes on direct appeal, we won't be found unpreserved if the trial attorney hasn't raised a freestanding due process right, and we don't need to go down to a canon of constitutional avoidance to get the proper interpretation of the statute. So, that's kind of an appellate opinion that's really favorable for appellate practice as well.

And then T.L. is the case that holds that appellate counsel may raise claims of ineffective assistance of trial counsel for the first time on direct appeal in cases involving change of a permanency plan or other cases that adversely affect a parent. Prior to that, we had an opinion Geist [Phonetic 00:26:48], which was limited to termination of parental rights proceedings, raising ineffective assistance of counsel. And then we have T.M.D., which holds that a court may not terminate an unfit parent's parental rights unless the evidence demonstrates that it's in the child's best interest to do so. Previously, there were long standing practice in the Court of Appeals that upon proof of a parent's unfitness, the Court of Appeals would infer that it was in the child's best interest to terminate that parent's parental rights. And so this opinion gives effect to the statute requiring proof of what's in the child's best interest to do so. And then more recently in Y.B., this opinion holds that on a motion to change a child's permanency plan, and then on review on appeal from a judgment changing a child's permanency plan, the two elements that the state must prove, that it's reunification efforts qualified as reasonable, and that the parent's progress qualifies as insufficient, are questions of law that the appellate court will review for errors of law.

And then just to highlight some of the progress in the Court of Appeals with that legislative intent to create clear rules of law that can be applied by both trial courts and trial practitioners. There are just a few cases I wanted to highlight. J.T.B. is one of our first delinquency cases, which held that youth is entitled to court-appointed counsel to pursue PCR type, post-conviction type relief at the trial court level. A.F. articulates the standard for the court to assert jurisdiction over a child. A.L. is an important case. It sort of gives effect to the idea that child welfare is necessary when there's no other available safety net. In A.L., we had grandparents who were fit and able and willing to care for the child. And so the Court of Appeals held that child welfare can't meet their burden if there's a third-party family member who's caring for the children successfully. And then N.M.S. is about prohibiting the trial courts from sort of shifting the goalposts. And that case holds that the juvenile court may not rely on extrinsic facts, which means facts that weren't pled and proven as a basis for jurisdiction in the first instance, to rule that a parent's progress is insufficient and change the child's permanency plan.

Ernie Lannet:

So, to go into a little bit more detail about what do we do, we want to take a moment to kind of explain what an appeal is and don't know if we'll get to all these slides in the time allotted, but again, these materials are going to be available. So, we'll start there. So, an appeal is not a retrial, and it's not a time for an introduction of new issues or new evidence. That's one thing

that we often are educating our clients about when they are finding out what an appeal is. It's basically an audit of the record that was made below at the lower court, their circuit court. And the only basis pretty much besides the effective assistance piece that Shannon already mentioned is that it has to be based on a legal error that the trial court committed. The litigation often surrounds about whether the appealing party did something to kind of bring this legal ruling to the surface, where the trial court understood that it was making a ruling and had choices to make, whether they in fact error [Phonetic 00:30:33], there's a lot of times where we're kind of arguing that the court made a mistake and the Department of Justice is insisting that that was within what the law allowed. And then often we're also arguing about whether this error requires reversal or whether it was just harmless, how it could have affected the outcome.

As playing the role of appellate representation, we are our direct representation to our clients. We're their agent and we are the ones that speak to the court on their behalf. So, just like there's no new witnesses, there's very little chance for our clients to speak to the court unless they're deciding to raise additional issues that we haven't. So, we kind of have to usher the whole thing through. As all attorneys, we have ethical duties that we owe to our clients, to highlight a few is conflict-free representation and exercise of professional judgment, confidentiality. And as chief defenders, as supervising co-counsel, we are on the hook too for those things.

Our approach in the Appellate Division has been a team-based collaboration. All of our attorneys, when they join us, start with a six-month training with a managing attorney one-on-one. Every attorney, even those new attorneys, are assigned to one of our attorney teams. Those aren't by practice areas. Those are teams of attorneys, all different layers of experience, levels of experience, and they meet weekly to talk about the issues that they're working on, issues with their clients that they're dealing with, prepare for oral argument in the Court of Appeals. That team's led by a senior deputy defender, but a managing attorney there is also to participate. Everything that we file with the court and briefs, the non-routine, not motions for extensions of time, but substantive things, it's our policy to have that edited by a supervisor or a peer. And then we're also kind of a resource to trial counsel. Attorneys are available for on-call consultation, and we're often brought in to present. I think given the time, here's a slide about kind of what our attorneys are dealing with each day or what they could be dealing with each day. We'll leave it there and then I'm going to pass it on.

Shannon Storey:

Sure. So, just some ways that the juvenile dependency appellate section is different from criminal is that we are expedited. So, our opening briefs must

be filed 56 days after record settlement compared to 154 days in criminal. And we may raise the claim of inadequate assistance of trial counsel in the first instance on direct appeal, where in criminal cases that would go to PCR, counsel for a PCR trial, and then a PCR appeal potentially. And then significantly, our appeals are litigated concurrently with trial-level litigation. And in most cases, if it's a TPR judgment, that may not be the case, but for the underlying dependency appeals, our clients will have trial counsel that's appointed, hopefully representing them at the trial court level at the same time that we're litigating the appeal. And this gives us great opportunities to consult with trial counsel and to sort of form a plan of approach, oftentimes getting good results for the client at the trial court level and then obviating the need for a direct appeal or at least for a successive appeal. And then also just because this area of practice is still relatively new and being developed, there's a lot of motion practice in the Court of Appeals, lots of motion practice around appealability and movements in particular.

Ernie Lannet:

So, with the few moments that we have left, a bit about our caseload. Criminal section receives about 1300 case referrals every year. That doesn't mean that we're filing notices in all those cases. Sometimes we're having to go through and see whether it's an appealable order or judgment that we're dealing with. And then our attorneys are assigned on average 37 cases each year. And that's pretty much on par with some of the recommendations if you look at our neighbor to the north in Washington or some of the other recommendations.

Shannon Storey:

The Juvenile Appellate Section receives between 300 and 400 case referrals each year and the attorneys are assigned on average 35 cases per year.

Ernie Lannet:

So, again, this slide kind of goes through kind of the timeline of kind of what we are doing, and all of our attorneys have many cases going on at once. So, they're juggling from one case to the other of what stage it actually is. But that's a little bit about kind of what happens through an appeal. But really want to make sure that you saw our email addresses and let you know that we're available to answer any questions that you have. We've had commissioners come to the office where we sat down and kind of talked about our practice and what it's like in the Appellate Division. We'd be happy to extend that to anyone who's interested.

Shannon Storey:

Or better yet, come to oral argument, it's really exciting to watch.

Chair Jennifer Nash:

Thank you very much for your time and thank you for taking time out of your trip to present to the commission. We really appreciate it. And we hope and want you to come back in the future and give us more updates.

Ernie Lannet: Absolutely.

Chair Jennifer Nash: Thank you. Sorry you had to pack a suit on your trip.

Shannon Storey: [Laughter] That's okay.

Chair Jennifer Nash: Next time it would have been okay for you not to get all dressed up.
[Laughter]

Ernie Lannet: We can go out for a fancy dinner later.

Chair Jennifer Nash: There you go. All right. Take care, thank you.

Ernie Lannet: Thank you very much.

Chair Jennifer Nash: All right. And moving on to our FCMS update, if Mr. Martin is available. And there he is. Thank you.

David Martin: Hey, good afternoon. Chair Nash, members of the commission, my name is David Martin. I am the chief information officer. I see that my camera is being funny. I joined the agency about four or five months ago, and I've jumped in with both feet. And it's been, I think, a few months since I last got a chance to provide an update. So, we'll cover a little bit of ground this afternoon. So, next slide. Some accomplishments. We've been very busy in the month of July. I want to provide a big thank you and acknowledgement to both Lucy Edwards, a business analyst, and Scott Emery, our ASCIO, on these FCMS requirements. Again, financial case management system. We had a body of over 800 requirements initially for our request for proposal, and it was through countless hours by Lucy and Scott that those requirements were scrubbed and vetted and validated and verified, all of the V words, they were indispensable on that effort.

Stage Gate 1 endorsement, this was a significant milestone. And I will also comment here that we ran parallel activities, both Stage Gate 1 and Stage Gate 2 efforts were working in parallel. We did not wait for Stage Gate 1 to complete before we began Stage Gate 2, and I'll get to the topic of Stage Gate 2 further into the slides. And I don't have a lot to say about the policy action package 101. I know that this body has already seen that, reviewed that today. Next slide.

Next steps. As I mentioned, July has been a busy month. Legal Sufficiency RFP, we have gone out to DOJ. John McCormick has been our key resource at DOJ. He's already provided an initial first review of our RFP from an IT legal contract standpoint. It's a very specific kind of law that requires a

certain kind of expertise. We have re-initiated contact to see if there is a need for a second review, but we are on target to see that addressed by the end of the month. Stage Gate 2 Artifacts, we're kind of doing in phase one, phase two, or batch one, batch two. Stage Gate 2, there are due to a lot of...around the complexity of the project, the degree of financing and risk, we have 17 items that are currently in scope for Stage Gate 2 batch. The first batch we submitted 14 of those 17 to our IT portfolio management team, and so those documents are in their hands right now, getting reviewed. I believe they have 10 business days to send back any requests for revisions.

At that same time, there's a parallel track. We are also working with a iQMS vendor, a quality management kind of providing...they're providing quality assurance, really. They bring three decades of government experience and they're able to provide a second set of eyes on this body of work, just to make sure that we are working in a positive manner. So, what gets submitted to our state IT portfolio management team also gets submitted to iQMS for the same review, just for that insurance. So, that was previously in this month. Now that it's the 24th of July here, we are on track for that second phase, that second batch of artifacts. There are three remaining artifacts from the project for Stage Gate 2 that will be submitted by end of week. And likewise to iQMS as well.

Chair Jennifer Nash: Let me interrupt you for a second because you used a lot of acronyms that I think some people don't know what they are. So, iQMS is information...

David Martin: Quality management system.

Chair Jennifer Nash: Okay. So, at the same time that you're developing what you need to be able to procure the program, you are also submitting it to a review entity that's also ensuring that it's being done according to all of the appropriate standards.

David Martin: Yep.

Chair Jennifer Nash: Okay.

David Martin: Correct.

Chair Jennifer Nash: Okay, go ahead.

David Martin: They've been a wonderful partner for us. And I will be watching for any acronyms in the future of this presentation here, just to make sure I'm tracking here. So, fabulous. So, Stage Gate 2, artifact submission to P3, and

I'll get into more detail, or maybe I'll take a pause right here and talk about P3. So, that is a definition for... EIS does a review of projects that gets submitted. And again, Stage Gate is that governance piece where we are submitting documents based on a certain degree of scrutiny or project rigor, and that scrutiny and rigor increases as the risk of the project increases. And so there's going to be a formal submission of documents targeting end of July, early August around P3.

And our project score has received a score out of one to four risk, this is around risk, and it's in the metrics for, or the algorithm that goes into the scoring of the risk of any project is around the cost of the financing of the project. It's around the project complexity. It's around the level of security in regards to the level of data, and how high of a level of data is in the system that is going to be in play here. The current score, and again, this is out of a possible four, this project has received a score under their review of 3.5. So, that is a decently high score. So, that is to say because of the score, the degree of rigor and scrutiny and requirements to move this project forward requires just an additional degree of attention. So, to that point, we are subjected to perhaps additional documents or additional detail to documents that might not happen at a P2 or P1, if that makes sense. So, that is on track. And then the final item is a bond funding submission. And again, we are on track for that. We are working with the DAS CFO and then internally here, I'm working with my CFO, Ralph Amador, and our fiscal analyst, Gabe Doherty. Next slide, please.

So, the procurement timeline, you can see here we are in July. And that Stage Gate 2 work really represents both the work that my team is doing as well as providing time for – again, it's another acronym – but SIPM, or State IT Portfolio Management, they're the ones that manage the Stage Gate process. So, that timeframe really gives my team the ability to submit Stage Gate 2 documentation, for the SIPM to receive those documents, to provide their analysis, their review, their request for revisions, and edits to documents. And I believe that represents a realistic timeframe for us to get all of those 17 artifacts completed. And really what we're focusing in on is that solicitation timeframe of the 23rd of September. The managed solicitation timeframe has pretty firm beginnings and ends. That is pretty well defined. I say that to say being open to proposals and evaluation of proposals has the potential for some squish in the timeframe. If you look up at the dependencies on this slide, we are giving ourselves the opportunity for a third round of evaluations if it's necessary. We are hoping and anticipating this is going to only require two rounds, which would mean that we would estimate that we would be working at concluding that effort at the very end of December or very early January.

The last part of that timeline is the awarding of a vendor contract, the plan and conduct negotiation timeframe. That allotment of time comes to us under the advisement of both DOJ and EIS. They believe that based on some significant experience, that that is an appropriate amount of time to get through the potential negotiations of a contract. What that really means is we are looking to target boots on the ground with an actual vendor to start standing up technology and building out a system for May of 2025. What I'm going to commit to this body for the August status update is a nominal or estimated schedule for what we are estimating of what that work looks like, that project will be like. That is currently in process, it's just not ready for this presentation today. Are we okay to move to the next slide?

Chair Jennifer Nash: Does anyone have questions besides me? Brook, do you have questions? Is he still on?

Brook Reinhard: I'm still on. I think my question, whenever I look at this timeline, it's hard to figure out what this means in actual boots on the ground. So, I'm a public defender's office with 33 attorneys in Lane County. How soon can I do this? And in the meantime, nurse my aged case management software that's 24 years old into the future. Like how long until this happens?

David Martin: That's a great question. Without a vendor actually selected, there's a lot of crystal ball guessing. But I would say that to be conservative on an estimate, it would be probably, and there's all sorts of phases to launching a new technology, but for a true go live, I think it would be safe to say that we would be looking at a maximum of 18 months from the time that we have a vendor selected.

Brook Reinhard: And from the timeline you just provided us, when do you think reasonably we would have a vendor selected?

David Martin: So, that's what I'm saying is that the plan and conduct negotiations, we would have a vendor selected at the end of April. We would have awarded a contract to the selected vendor by that time.

Brook Reinhard: Okay. Then my one other question, maybe this is premature, I can ask it later. Is there anything that can be done to expedite this? Because this has been at least 10 years in the making. That's not your fault. Is there anything that can be done to expedite that?

David Martin: That's a fair question. We are going extremely quick, and I know that that doesn't help or make you feel any better. This, as I mentioned, due to the complexity of this project and the risk around the data, the level of data security that this system is going to handle is, from an IT definition is what's

called level four data, which level four data requires the greatest protection measures. By definition, level four data means that if it were to be released, it causes serious harm to the individual or causes reputational risk to the agency or the state. So, this solution that we're putting in place is going to operate with that kind of data. And so we're going as fast as we can, but at the same time, we also need to make sure that we have the right degree of documentation and not just have the pieces in place, but have them in correctly, if that makes sense. So, to some degree, to go fast means that we need to go slower, just due to the overall context of this project. But I guarantee you that I have a very close watch on this calendar, and if there's the ability to shave off weeks or months, we will do so.

Brook Reinhard: Thank you.

Chair Jennifer Nash: My questions are related to, okay, we're moving to the Executive Branch January 1st. This is a problem, I think, and OJD is going to stop supporting anything that we're doing July 1st. So, if we're not going to have a vendor identified until April of 2025, it feels like maybe that June 30th, 2025, date becomes problematic for not having OJD involved. And I'm hoping that maybe you can address those two concerns.

David Martin: Of course. And I'm happy to allay those concerns. The model of how technology is largely implemented these days is gone are the days of equipment physically getting installed on an actual piece of equipment that sits in a data center. What we are looking to implement for our agency is called a COTS, C-O-T-S, which means commercial off the shelf. And it's also SaaS. That's another acronym, S-A-A-S, that's software as a solution. So, what that means is this is going to be a cloud solution that will work irregardless of what branch of government we're in, or what is happening in regards to our transition from OJD. Provided that we can get to the internet, we will be able to use this solution. And while there are certainly... I don't want to say there are not pieces that are in play in regards to this transition, that's a whole separate topic. There is nothing in place that gives me any degree of concern that this timeline needs to align with a January 1 timeframe or a July 1 timeframe.

Chair Jennifer Nash: Well, okay. Let me try to be more precise. When OJD pulls the plug on June 30th, 2025, are we going to have a program in place that's up and running so that we don't have a gap in the ability to authorize payment and pay vendors? That's really what I'm asking.

David Martin: Yeah, that's just not something that's going to be. And I would say that from the standpoint of the transition perspective is we are working to actually be completed well ahead of the July 1 timeframe. So, from the standpoint of

the transition itself, like for example, the network portion of this, which is going to be I think the most topical to how we get to this solution that we're talking about this afternoon. That's going to be completed this fall. So, there's not going to be a critical path item that's going to create operational or financial problems for our agency.

Chair Jennifer Nash: Okay. Thank you.

David Martin: Mm-hmm. Leaving it open for any other questions? Hearing none, let's move to the next slide, Mona. The labor timeline. Let's see, some takeaways here. In the month of July, we moved a contracted project manager to state service. And actually, as of this week, you can see we're again... Here we're in the month of July. This literally this week, I was able to begin signing contracts for an additional project manager and an additional business analyst. The business analyst is currently tentatively to begin August 5th, and the second project manager to begin August 12th. I am looking, as I talked earlier about the level four data that's in the system, I'm still keeping an eye on our trip to the E Board in September to discuss a chief data officer. But that's probably the topical things for this slide. Any questions? All right. Next slide.

This slide really represents the topics that I've already shared. It's just presenting that information in a slightly different way. There's been some slippage on timeline, and that continues to be something that we look at closely. And the second risk there around resourcing. Again, this document was created on the 12th of July. So, it was prior to me concluding some efforts around the project management and business analyst piece. But those are the two main risks that we're looking at at the moment. Next slide.

There's a lot of yellow and there's not any green, and I hope to get to some green next month. But let's talk about reality here. So, the project status, it's a medium risk. Until we get officially through Stage Gate 2 and have that completed, I feel like there is a reason to leave this yellow. Again, we're looking for a September 23rd solicitation date. The budget status is at medium risk. Similarly, until we get clarity around what happens in regards to bond funding in our policy option package, I believe it's prudent to keep that at yellow. Our schedule status, not everything is necessarily weighted equally. I realize sometimes visually you see these, and these are all equal, but they're not. This is specifically to iQMS. There was some vacations here this summer and so we didn't get feedback as quickly as we usually had. It's a one-off. We have mitigated that. But for the month of July, that was tagged as red.

And then from a resourcing standpoint, we are trending green. We have, as I mentioned, a project manager now in state service and we have the BA and the PM positions filled. I look forward to seeing the results of the E Board in September around our chief data officer. And in general, our scope remains at yellow, and I think that's just representative of the overall you're seeing on that sheet. And the iQMS is just more or less a copy or a mirror of the data above. As I shared before, the iQMS, they're seeing the same documents as we are working with EIS. So, any questions around the status? Oh, and I would also mention on the scope status being yellow, the 600 requirements that are out for RFP are largely helping define that yellow. That's a lot of requirements that our agency are going to need to score and vet and evaluate. Open this up for questions?

Chair Jennifer Nash: Does anyone have any questions? All right. It doesn't sound like it. Well, thank you very much for updating us, and we look forward to hearing from you in August for further updates. And I talked with Director Kampfe about having you come before the commission regularly to update us because this is a pretty high risk and fast-moving issue. So, we look forward to continuing to receive those updates. Thank you very much.

David Martin: Absolutely. Thank you.

Chair Jennifer Nash: All right. Moving on next to the director's update from Director Kampfe.

Jessica Kampfe: We've covered a lot of ground today, and I really don't have much to update you on. So, we have a commission meeting coming up in August. The commission will need to approve the agency's budget requests for next year and finalize the letters to the Emergency Board. It will be an important commission meeting, and I hope to see you all there. In the meantime, our subcommittees have been working and the Legislative Subcommittee is going to be helping to support the agency on the reports that we are writing for the September E Board. Those will also be in front of you all at the August commission meeting. The Governance Subcommittee has been working on an executive director evaluation, performance evaluation, and you will be hearing more about that at the next commission meeting and also working on the Audit Committee Charter. So, those are emerging issues that you all will be hearing more about in August and really appreciate the work of our subcommittee members to keep moving that substantive work forward in between our larger commission meetings.

Chair Jennifer Nash: Does anyone have any questions or comments or anything for Director Kampfe? Anyone have any questions or comments generally that they would like to bring up at this time? Okay. Well, I want to say thank you for everyone who has hung in here and thank you. This was a very action-

packed, no pun intended, dense commission meeting and I appreciate you hanging in there and appreciate your – always – your time and dedication and commitment. And with that, we will adjourn to our next meeting, which is on August 21?

Jessica Kampfe: I believe it's August 21st.

Chair Jennifer Nash: August 21st. All right. With that, I'll take a motion to adjourn.

Peter Buckley: So moved.

Chair Jennifer Nash: And a second. I'll second it. All right. Okay. And we'll just assume nobody's objecting. All right. Thank you so much. Have a good afternoon, everyone.

Tom Lininger: Thank you.

Peter Buckley: Take care.