

Eric Deitrick:

Good morning everyone and fellow commissioners and welcome to our first subcommittee meeting on governance. There was an agenda and materials sent out, but today I'm really hoping we can kind of have more of a brainstorming session to lay out some of the ideas you all have about how we can work together as an agency and create good governance practices going forward. With the idea that we'll probably have to have at least two more meetings before our March retreat scheduled on the 20th and the 21st.

I know we talked a little bit about governance at our onboarding retreat and at the first meeting. It's something that hasn't really been optimal I'd say for the past several years for this agency and this commission, and I think there are a couple of reasons for that. The first is the personnel and the personalities and the folks involved in the administration and management of this agency was pretty steady for a long period of time but going back to about four or five years ago, we started seeing what had been a consistent set of commissioners start to transition out, new commissioners come in, and that started happening with more frequency. At the same time, a lot of the staff in the agency had turned over. And so I think that's one of the factors that contributed to the state we find ourselves in.

But the second is the statutory scheme authorizing the agency in Chapter 151, which has been redone as a part of Senate Bill 337, was also kind of confusing about the roles. It created the Public Defense Services Commission. It talked about the duties of the Public Defense Services Commission. It talked about the Office of Public Defense Services, but it didn't always clarify who was responsible for what. So, part of what Senate Bill 337 did is that it did clarify better, I think, than the prior scheme about roles and responsibilities. So, ORS 151.213 talks about the specific duties of the commissioners, and those are laid out as selecting, and I think impliedly reviewing and evaluating the executive director of the agency.

Secondly, providing feedback, reviewing, and determining whether or not to approve agency policy. And third is reviewing, providing feedback, and ultimately authorizing the agency's proposed budget. ORS 151.216 talks about all the high-level duties the agency has as a whole and what it needs to accomplish. And then ORS 151.219 lays out specific things that are in the responsibility of the executive director. So, I do think the bill did provide clarity on that front. My hope for today is just to get as many ideas from you all as we can on how to draft bylaws so that everyone knows our roles and responsibilities and we can work together, and then at the end of the meeting, have you all select a chair to carry this work going forward. So, with that, I'm open to ideas on how to begin the conversation about bylaws and kind of working through bylaw topics, but I wanted to see if anyone had

anything they wanted to throw out at the beginning. Yes, Commissioner Mandiberg.

Susan Mandiberg: I'd like to mildly disagree with your sense that 216 and 213 have completely clarified roles. I've gone through them pretty carefully and sometimes the statutes use the term commission, sometimes the statutes say all members shall do this or that, sometimes they say voting members shall do this or that. So, when they say all members... Well, for sure when they say voting members, that's pretty clear. But because the agency and the volunteer group have been merged under one term which is "commission," when the statutes just use the term "commission," which is what they mostly do, I don't think it's completely clear which tasks go to the hired employee personnel and which tasks go to the volunteer commissioners. And so I would like to see the bylaws make that division even clearer than it is in the statutes because I think the most clarification we can bring to the tasks, the more likely we are to accomplish them successfully.

Eric Deitrick: Yeah, Commissioner Mandiberg, I mean, I agree with that. I appreciate it and I would say they're more clear than they were before, not perfectly clear.

Susan Mandiberg: Not by far. [Laughter]

Eric Deitrick: And I agree. I think that's where we can use these bylaws to really draw out lines and roles and responsibilities. Our government relations manager, Lisa Taylor, was present for a lot of these discussions, and I don't know if she's available to jump on but...

Lisa Taylor: Yeah. Well, for the record, Lisa Taylor, government relations manager. Yeah, this was a whole workgroup and pretty long process to get Senate Bill 337 together. In those meetings, it was really discussed about the legislative intent of this to make sure that the bill said "commission members" when they were referring to specific duties of the volunteers on the commission. And then when it just says "commissioners" they're referring to the body of the whole, the agency as directed by the commission. But I do agree that there are areas where it's unclear if they mean voting members or all the members and that's something that should be clarified in bylaws and could potentially be clarified in a cleanup bill in the future.

Eric Deitrick: Thank you, Lisa. So, looking at our current bylaws, and I sent around some materials from other agencies that have bylaws just to provide context, and I'm sure some of you are on boards whether they be nonprofit boards or have been on other government boards in the past. The first section of our existing bylaws is pretty standard. It talks about the agency name and

mission. And so we have our name. The agency has adopted a mission statement which is that our mission is to ensure constitutionally competent and effective legal representation for persons eligible for a public defender. I noticed some of the other agencies had a statement of purpose, which we do not have, and also a statement of authority. And so I'd be inclined to work with you all on including that. I think the statement of authority would be fairly straightforward. Does anyone have any comments or thoughts on what we could do in that first section? Yeah, Commissioner Parrish Taylor.

Jennifer Parrish Taylor:

I think it's important because I guess I look at bylaws as an accountability tool. So, I think it's important to include our mission statement, which I think goes gets to the question I've asked, like, what are we trying to accomplish? And so I think the more we can enshrine those goals and aspirations into our documents but also obviously have clear metrics the better. Because for me at least, my experience coming onto the commission and having to deal with an immediate transition or a vote on an immediate transition was... If someone doesn't know their roles and responsibilities especially as it relates the ED and how they should engage with the commission and vice versa, it's hard when it comes – I guess it's not hard – it could be potentially difficult when you're trying to make decisions around whether or not someone needs to continue in their role. And so for me I think the more we can be very clear about who is doing what and when would be helpful.

Eric Deitrick:

Thank you for that. Well, maybe that's a good jumping off point. I talked to a couple of commissioners in the past week, and I know we talked in the first full commission meeting about some of the challenges with governance. And within the first meeting I think it was clear when you all were asked to review draft agency reports. And so I brought up some notes about things that were discussed at the first commission, that we said that this body should possibly consider in developing bylaws.

And one of those is what your all's role should be in approving agency reports. Because when you look at 151213 and the specific direction that has been provided to the commission members, it is again, selecting the agency's executive director, reviewing, providing feedback, evaluating, and deciding agency policy, and then reviewing, providing feedback, and ultimately approving the agency's budget. So, when you look at our work ahead over the next two years, we have a significant number of reports. Government relations manager Lisa Taylor has a long list that's color-coded of all the reports we're going to have to be providing to the Legislature.

And so given the discussion we had at the first commission meeting, I'm wondering if any of you have thoughts about your comfort level in

reviewing those reports. I know we talked about creating one-pagers or short summaries. But I'd like to hear some of your thoughts about that and how we can better spell that out. Yeah, Commissioner Smith.

Addie Smith: Hi. Okay, so a couple things. With regard to the reports, my first question is I haven't gone back and looked at all of the language, but since we're being cautious as the attorneys that we all are about who's being told to do what, are those reports required to be approved by the commission itself or can the agency approve them in the language that is drafted that requires those reports be presented to the Legislature? And if we don't know today, that's okay, but it may be one of the things we sort of want to look into is who must submit those per the legislation because it may be a simpler solution.

Eric Deitrick: Yeah, no, I'm glad Lisa Taylor is in the meeting. Per statute, they do not need to be approved by the commission, and this is where I think Lisa can be helpful because I think given some of the issues with the agency over the past few years, it's been expressed to the agency in some ways that the commission should have a stronger role of oversight, and at least with some pieces of the Legislature wanting to see those reports go before the commission. But Lisa, do you have anything to add on that?

Lisa Taylor: Yeah, I would agree with that. I mean, I won't speak to the actual statute and what that language all means exactly, but the reports are submitted with a letter signed by Director Kampfe. However, it's been made pretty clear from the Legislature that these reports need to be approved by the commission. I guess that's what I'll leave it with.

Eric Deitrick: Yeah, Commissioner Mandiberg.

Susan Mandiberg: So, here's where it gets confusing because the statute says, and it's in 151.216(1)(n), I believe, that the commission submits the report to the to the interim committees. And so when we use the term commission, I don't know who we're referring to because if the term "commission" in the statute means all of us – the volunteers and the staff – then it's not clear who submits the report. But if, as Miss Taylor says, "commission" in this sense means that the volunteer group has to approve the report that the staff puts together, again, the term "commission" to me doesn't communicate that.

So, I think that if what the legislative intent was was that the staff put together the report and the volunteer group approve it, the bylaws need to make that clear. And maybe the way we do that is to come up with some other terms rather than use the term "commission" because the term "commission" turns out to be ambiguous. And I don't know that you have to

be a lawyer to be suspicious of ambiguity. Ambiguity doesn't further things very well unless you specifically want ambiguity so that you can hide whoever has to be responsible.

So, maybe we could come up with some terms that differentiate between the commission members who are volunteers and some of whom are voting members and some of whom aren't, and the commission members who are employed staff. The way that the Legislature does that sometimes is by saying "voting members." But that's the only real differentiation that the legislation makes in terms of the use of terminology. So, when all we say is "commission," I find that very confusing.

Eric Deitrick: Yeah, the difference that I think government relations manager Taylor is mentioning is that in 216, they talk about the commission, and then in 213 they talk about members or voting members of the commission. I think that's the distinction they were trying to draw. It is hard, I know...

Susan Mandiberg: Use both terms in 213.

Eric Deitrick: Okay.

Susan Mandiberg: 213 sometimes just says "commission," I believe. Now, I could be wrong about that. Sometimes they say "all members," 213 sometimes says "voting members," sometimes says "all members." But "all members," how is "all members" different from "commission"? So, I'm sorry. I still find it very ambiguous.

Eric Deitrick: I know the template for part of this was the Criminal Justice Commission, which is an agency called the Criminal Justice Commission which also has oversight by a commission. Yeah. So, I think that is the balance it was trying to strike, Commissioner Smith.

Addie Smith: Well, it feels like maybe in order for this group to feel comfortable moving forward, what someone's going to have to do is create a memo that outlines what 337 says and who under 337, meaning the terms Commissioner Mandiberg is using, are required to do the things. So that then as a governance committee, we can take a look at that and further interpret in our bylaws what the most appropriate course of action is based on sort of what 337 says. And that seems like it could be integrated into bylaws in some instances, and in some instances it may not need to be so formal. But I get the sense that until we sort of have a little bit of a chart that we can refer to, this ambiguity is going to hold us up.

Eric Deitrick: Okay, we have homework for the next meeting.

Addie Smith: Putting more work on your plate.

Eric Deitrick: No, no, it's a good homework assignment. Thank you. Commissioner Harris?

Rob Harris: Thanks. Yeah, so having been on the workgroup for 337, I'll take part of the blame on this, although this section wasn't really a part of my focus at the time. But looking at this also the last couple of days, it appears to me that 213 is more focused on our voting commission, and 216 is more focused on the responsibilities of the agency. And perhaps when we do these bylaws it'll be an opportunity, at least until Chevron is overruled perhaps, to state specifically that. In general, like we say, the purpose of the commission is as follows, those under 213 fall under this purview, and the commission allocates the duties.

Maybe we wouldn't say that specifically in the bylaws, but under 216 those will be primarily performed by the commission's employee staff. And so maybe wrapping this up and the start of the conversation, maybe we do have a purpose stated in our bylaws that clarifies the allocation of duties under 213 and 216, which I think are largely...213 is the voting commission members and 216 is the ED and the staff's responsibilities.

Eric Deitrick: Yeah, and I noticed that's kind of how Idaho's bylaws work for their public defender agency. It looked like they lifted their statutory scheme and put it in the statement of purpose, and we could do something similar, breaking it out by 213 and 216. Commissioner Wright?

Jasmine Wright: Yeah. I guess I want to just piggyback a little bit on Commissioner Mandiberg. As a non-voting member, I do find those two those two sections a little bit inconsistent, and so I would like some clarity on that in terms of exactly what we can do what we can't do in terms of the committee and the commission and non-voting members and members. So, I do think we need some clarity in terms of where we are. My reading is very similar to the other committee members.

Eric Deitrick: Thank you. Commissioner Parrish Taylor, you had your hand up but then it went down, and I wasn't sure if that was...

Jennifer Parrish Taylor: Yeah. I just don't know how constructive my comments are going to be because I think I'm letting the pressures of my schedule dictate my tone, so I'm just going to go ahead and say it. I guess being the non-lawyer, I'm not real interested in spending a whole bunch of time on this. I understand it's important but there's work that needs to get done, and so can we just start talking about what are the buckets of work and who potentially we think

could be doing that work? Because this is a two-hour meeting, I'm dying. So, I want to get to the meat of it.

Eric Deitrick: No, I hear you on the time crunch, and I think at least for this first meeting, I wanted to get everyone's thoughts out on the table and brainstorm and ideas about concerns, questions going forward so we can work on bylaws and start defining those roles and responsibilities. I don't know if we'll use the full two hours today, Commissioner Parrish Taylor.

Addie Smith: It feels like there are kind of three buckets of things we need to get done, right? There's sussing out how we want to interpret the authoritative statute here, which is something I think Commissioner Mandiberg has sort of offered to do in the chat. And we can push pause on that. There's figuring out how that integrates with our bylaws, but I think the other piece is what are the things that have been confusing in the past that we specifically want to make sure there's clarity on. And maybe that brainstorming around those, so that folks have time to review the chart and look at potential bylaws between now and the next meeting. And come ready on that but digging into some of those bigger questions might be a good pivot.

Eric Deitrick: Yeah, so just thinking about the past, and I know some of the things that have come up before were concerns about how agendas get set, who determines what gets on a meeting agenda, and who determines whether meetings are scheduled. And we've tried to clarify that in our bylaws by saying the agenda is determined by the chair and the executive director, but even with that, there have been questions where other commissioners really wanted something they could not get on the agenda and wanting to know the process for that. So, that's something that has consistently come up in the past. In terms of meeting materials, one of the issues that's consistently been a theme is how far in advance of the meeting should materials be sent out. And there's been discussion and I think concern about the volume of the materials and how those materials can be made more succinct. Commissioner Parrish Taylor, you were on the commission prior to this, are there other issues that you've seen that you would want clarity on?

Jennifer Parrish Taylor: Yeah. I mean, I feel like one too, and you've spoken to this, I don't think we get the documents necessarily with enough time to review fully or to the depth that our roles expect us to. I think there's a lot of research and often questions that folks have, and so I think being able to establish, one, getting those materials in a timely fashion but also establishing expectations around when that follow-up is going to happen. Because I think sometimes we're left waiting like, "Okay, I thought we were going to talk about this, and we're not talking about this," or it wasn't fully understood what the

question was in terms of what the commission was asking the agency to look into.

Eric Deitrick: Yeah, Commissioner Wright?

Jasmine Wright: Yeah. I just have a question just because my first meeting was last meeting. The volume of materials that we received at the last meeting, should that be a consistent expectation of what we should expect in each meeting or was that a high volume?

Jennifer Parrish Taylor: That's about right. [Laughter]

Eric Deitrick: From my perspective... I was going to say – it certainly wasn't on the low end.

Jasmine Wright: Okay. Because it seemed to me that with the volume of what we had and the time that we were given to review it, the expectation that we were to review that and in theory approve it was an unreasonable expectation. So, I guess I'm wondering if that's the volume that we can routinely expect to receive, that there has to be more of a lead time for that. I guess that would be one of the things that we would need to kind of develop and set some expectations for. I don't know.

Eric Deitrick: No, thank you. I agree. Commissioner Harris?

Rob Harris: Yeah, two things, I guess. On the agenda setting, I think it's fine. This is to go back a little bit. On the agenda setting, I think it's fine for the chair and the executive director to meet and to develop a proposed agenda. From what you're telling me, there's times in the past where a couple of commissioners maybe wanted to talk about something that didn't make it. Perhaps there's a process for once the proposed agenda is received, if at least two or three commissioners ask to have something added to it, it will be added to the commission... So, perhaps there's a process that can be done. That's assuming you get the agenda far enough ahead of time, obviously, for people to propose additions to it.

On the materials, it's a lot of materials. This is not a full-time paid position for us. We knew what we were getting into, I'm not complaining about that, but I am saying that that means most of us have a certain amount of time to allocate. I probably have more than others because of my situation. But nonetheless, most of you folks are working 50, 60 hours a week already. So, I do think we need this material more ahead of time than we have gotten it. I don't think you have to wait for the entire package to be complete to start sending this out. If there are stuff that we can get out earlier, you can say

partial package or something. And I understand why sometimes you're not able to get it earlier. If we are being asked to vote on something, I'm going to be really hesitant to vote on anything that I do not have time to vet. Particularly if it's some report that's being forwarded to the Legislature because that gives our imprint as if we've reviewed, questioned, had our questions answered, and approved it now.

We may end up doing something like we did last time, like, "We approve the executive director to forward this to meet their deadline." And that, I think, clarifies what we've done. But then I feel like we're not really doing our job either. So, I would like more time rather than less. I don't know if a strict time frame is going to work because of the nature of this stuff coming at a fire hose at us right now on the issues that are coming at us. But I also think that this commission was reformed, given additional power and authority, and expanded with the idea that we would be more involved and would have more policy setting power and involvement. And so that being what it said, I don't know what to tell you about the time frame, but more is less, when stuff is ready you should get it to us, and I may be voting in the future that I'm not ready to vote unless I do get it in time.

Eric Deitrick: Commissioner Smith.

Addie Smith: I would just obviously echo all those sentiments. I think we're all very cautious in what we want to put our seal of approval on. I do, however, want to gently disagree. I think setting timelines is going to be the only way to set this up for success. As a board, for us to say, "We're not going to vote on anything we haven't had for 10 days," or fill in number of days, helps the agency and agency staff understand if we want to meet this deadline for the Legislature, we have no choice but to get this to the commission 10 days in advance of the meeting, or again, whatever day we want to pick. I think having those kinds of rules in place can be helpful just based on human nature because we're all more responsive to sort of strict deadlines. But a rolling deadline typically doesn't play out in terms of actually getting things in a timely manner.

So, I would just suggest that we may want to put something in the bylaws about sort of we'll accept materials up until the day of the meeting, but to the extent that any materials are requiring a vote of approval, X number of days would be required. And then that also, Commissioner Harris, might help the agency prioritize what they're sending sooner and what comes in a little bit closer to, and it should help all of us understand the level of depth each of those pieces may require review. Is it something we're supposed to be aware of versus something we're putting our signatures to, sort of metaphorically speaking? So, I tend to be a little more rigid when it comes

to policies, I know Eric knows that about me, and I love a good policy and procedure. So that would just be my suggestion on this topic at least.

Eric Deitrick: No, so this is good, this is what I was hoping we'd be getting. There's a few jumping off points based on this. The first thing I guess I'll go to is timelines because I agree, I think we need strict timelines, that's what keeps everyone in check. But to Commissioner Harris's point, I tend to agree with what you said about getting materials out earlier if we have them. There's been this tendency to wait until all the materials are completed, and I think we can just get them to you as they're ready if they're ready well before that timeline instead of waiting. Following up on that, this is early, we talked about having state-issued email addresses. I have found that to be responsive I need to... I've been sending communication to both your state email address and your regular email address, and I just wanted to hear commissioners', folks' thoughts on that. Is it helpful to distribute materials to both email addresses? Okay.

Addie Smith: I appreciate the attempts to protect our inboxes in terms of public record searches, as someone whose palms get sweaty anytime we talk about public records. And I think in reality, when you're especially just sending information for us to print out or review, it is very helpful for it to come to not just my OPDS inbox.

Jennifer Parrish Taylor: I will be fully transparent. I've not cracked that thing open since we got it, and if I don't get a calendar invite to my work email, it doesn't exist. So, yes, it would be helpful to have it come to both places.

Eric Deitrick: Yeah, I appreciate that. I think we will still try to, like if there's any formal communication where there'll be a back and forth, go through the state email address. But yeah, clearly for meeting invites, sending materials, getting you the information you need, I think we'll continue then and get the message across the agency to use both. Voting, Commissioner Harris just talked about voting, and possibly saying I'm not ready to vote. This is something at the onboarding, if there's not sufficient time to review the materials. One of the things DOJ raised at the onboarding retreat was voting – voting yes, voting no, or can you abstain? And we've seen this come up in the past where on issues there was intended...there was some thought that maybe a commissioner could just vote present or vote to abstain.

The recommendation from DOJ on this is that when commissioners are present for a meeting and there is an action item, there should be a vote yes or no. And they really discourage voting present or abstaining from a vote. And that is something that's not in statute that we would have to include in our bylaws. I think that makes sense to me because a vote of yes

is an endorsement of the action item, and if you're not ready to endorse it, if you're not comfortable endorsing it, if you don't feel persuaded, feel like you're fully supportive of the measure, a no vote would be appropriate. But I'm curious about anyone's thoughts on that. Yeah, Commissioner Harris.

Rob Harris: Yeah, I have no problem with that, and I saw that BPST has that in their bylaws as well. I do want to make sure there's room to abstain or recuse based on a conflict as well though. I want to make sure that's included in there.

Eric Deitrick: Yeah, absolutely. And of course, when there's a yes or no vote, you can always provide an explanation to provide clarity about why you're taking the vote that you do. But yeah, on conflicts, we need to have that provision there. Any other thoughts on that issue? Well, then the other thing that was raised there, and I think it's good news, it's not the most amazing news, but this commission will be a volunteer commission no more. So, we did change language in chapter 151. A few years ago the Legislature created a statute that authorized commission members to receive a per diem for days of service equivalent to the Legislature, which I think is about \$151 per day.

And so we are working on a process internally right now to get that set up for all of you. It would basically say on any day for which you give more than an hour of your time to the work in furtherance of the agency, you're eligible for that per diem. You've always been eligible for travel costs, although we don't travel as much as we used to for meetings and things like that. But there is going to be eligibility now for the per diem. We're still trying to pin down how to gather that information from you all. There will probably be a form involved that you'll have to submit monthly documenting time spent on agency business. But we are working on that. Okay, I wanted to turn a little... Yeah, Commissioner Smith.

Addie Smith: I had another item I'd like to add to our sort of list of considerations.

Eric Deitrick: Absolutely.

Addie Smith: I'd like us to think about how we want to respond to some of the public comment we receive and what our role is in that. I think there's a balance that needs to be struck between an internal complaint process for the agency and then sort of the role of OPDC. I think both are really important, but I also think that there are some things where it may make more sense for there to be an agency complaint process that has to sort of be initiated or used. Especially as we think about governance and sort of really trying to delineate the difference between the commission and the agency. I want the commission to be a place where folks feel like they can come and bring

concerns, but I want to think about how we can sort of really transmit, like, our role is policy and policy decisions, and so to the extent that you have concerns about policy and policy decisions, we are the place to come.

To the extent that you feel something was handled wrong or policy wasn't implemented according to the policy, I think that should likely be funneled first through an agency process. And maybe some of this is already happening and I just don't know, or maybe others disagree and I'm very open to that. But I want to make sure that we're, sort of as Commissioner Parrish Taylor was talking about, using our time as best as possible and to fulfill our specific role. And that seems like one area where there's been a lack of clarity in the past. I also don't want folks to get bogged down waiting on us for concerns or decisions that could be made by the agency in between meetings because it's not really ours to weigh in on. Because I want things to be efficient, I want folks to feel that the agency is responsive and transparent and all that good stuff. So, I would put that in the bucket of conversations for governance.

Susan Mandiberg: Yeah, Commissioner Mandiberg?

Susan Mandiberg: I want to second what Commissioner Smith said, I think that's absolutely right. It also relates to the question of what our role is in supervising the agency or in ascertaining the facts about allegations that the agency is not following the standards and policies that we are responsible for either creating or approving. And especially because, again, I don't have the section number, but I believe that the legislation says that the chair of the commission is one of the people responsible to be a liaison to the Legislature and to appear before the Legislature and explain any problems. And so comments that come from the public are at some point likely to be reflected in questions and comments from legislators. And so I think that the roles of supervision are important to clarify, as well as the roles of who has the first shot at responding to complaints that are made.

Eric Deitrick: Yeah, Commissioner Harris.

Rob Harris: So, having been someone who testifies in front of the committee over the last several years during the public comment period, I would say two things. Number one, to me it's no different than a city council or county commission that has open comment from the public. It's just something that commission should be doing. Number two, I think if you keep it to three minutes, like a city council meeting could be three-minute presentation, I think that resolves some of the issues.

Also most of those folks who are testifying before the commission, the commission is not their first option. They've already gone through talking to their analyst, their contract, their CAP person, possibly a deputy director. They've talked to the commission, I believe, my experiences, for the most part they've gone through a process. No one wants to alienate... Well, I won't say no one. Some lawyers are like this. Most people don't want to alienate the people they're doing business with within the agency. And I think that's just the reality of how the process has worked. I think it could be tightened up. I understand the concern here, it can be tightened up. There are issues that it would...

It's unfortunate that some people who testify are bringing some issues up that are probably not well-founded, or they did not do the groundwork on. But I think to stop them from testifying or bringing them to us is I don't... And I don't think that's what's necessarily said at all, but I'm saying that I think it's appropriate just to leave public comment, but maybe limit it in some way and encourage people to first turn to the agency to resolve disputes.

Eric Deitrick: Yeah, Commissioner Smith.

Addie Smith: Yeah, I'm not insinuating we limit public testimony. I am insinuating though that we have really clear paths, so folks know how to get the answer and the solution in a more timely manner. And so if we're ultimately not going to be able to give them the solution, I want there to be a flow chart that's on the web that they see that they feel free to always talk to us. But to get the sort of answer they need, they have a formal complaint process with the chain of command within the agency that they can engage, sort of like you're describing. So, I'm always obviously open to hearing anything that's going on.

I just want folks to feel like they're getting transparency, responsive, and in a timely manner from the agency. And part of that, I think, requires having some formal complaint policy that isn't just sort of, "Talk to so-and-so," and if they say they can't and tell you to talk to someone else, talk to that per... So, I think we're saying the same thing, but I just wanted to take the opportunity to clarify. Really, the goal is to get people the solution faster, and if we're not ultimately going to be able to provide that solution, I want that to sort of be known and clear, so folks know where to go first and fastest to try and get that solution.

Eric Deitrick: This is great, this is one of the things I was hoping to talk about today because Chair Nash brought this up at the commission meeting we had in January. And I see it as kind of two separate issues that are tightly

intertwined. But to the extent that there are folks who want to have complaints or grievances about the agency's policies or practices, this is something that has come up with us in the Legislature. We have a remediation plan, it's an ongoing project we're working on, and this is one of the issues that's in the remediation plan. It's interesting.

So looking in the materials, there is bylaws from housing. I think it's in Section 4. They actually have a piece like this where they say if there is a complaint about – there, it's the board, I think, maybe it's the council of housing – but if you have a complaint about the actual commission's policies, there's a rule that you send a formal letter to the chair of the commission. If you have a concern or a grievance or a complaint about the agency staff's implementation of a policy, you write a letter to the executive director of the agency. And I think that's something that we could formalize that would start to help answer these questions but also help us in a remediation plan with the Legislature.

In terms of public comment, I agree, it's just a best practice. We're not required to do it, but we believe we should do it. Independent of any formal grievance or complaints folks have, just having a time for members of the public to provide that comment to you. Yeah, I agree, most... Commissioner Harris, governing bodies provide some limit on that, whether it's two to three minutes for them to make those comments. Commissioner Mandiberg?

Susan Mandiberg:

Yes. So, I have a question and maybe other people who have more experience dealing with government than I do can answer this. Your distinction between questions about policy and questions about implementation of policy is what I have a question about. So, assume the situation where a member of the public agrees with the policy but does not think the agency is implementing it correctly and makes a complaint to the agency and the agency doesn't handle the complaint adequately. It seems like at that point, the member of the public should be able to come to us because it's our job to supervise at some level how the agency is implementing our policies. And so a strict division that you lay out doesn't seem to account for that type of situation, and I wonder how you would put that into your categories.

Eric Deitrick:

Yeah, I think that's a good point. If the policy is supported but the agency is not implementing it in a way that a provider or some member of the public agrees with, like for example, the way the housing bylaws work. It says you need to notify the executive director. And if the executive director's responsiveness on behalf of the agency doesn't meet the person's desired feedback, that's where I think we need to figure out what happens next. Do

all of you receive something? Does the chair receive something? Do the chair and the vice chair receive something? Yeah, Commissioner Smith.

Addie Smith:

Yeah, I was just going to say I think that's sort of the essence of a good grievance policy is you have to, to use the legal term, sort of exhaust all remedies before you end up with us. And so giving the agency itself the opportunity to adequately address the concern, I think, is really important and best practice. And then to the extent that individuals feel that their concern has not been addressed, that's when I feel like it becomes sort of appropriate for us to step in. I think one of the important things though, recognizing our role especially as defined by the new legislation as sort of policy setters and supervisors of Jessica but not of everyone else is giving the agency that opportunity to right the wrong or adequately respond before we sort of nose our way in.

And I think one of the things I'm sort of trying to get at but not very eloquently is setting that tone and helping our constituents who we care about a lot have access to a meaningful grievance policy, but an understanding that also sort of under our bylaws or within our new role, in a lot of these situations we can't provide the answer, or we won't provide the answer until those remedies have been exhausted, not to use too much of a legal terminology. Because I want folks to know where to go to get the quickest answer or to follow the policy in order to get the best response. That's my thinking at least. Again, I'm always open to pushback.

Eric Deitrick:

No, I think we do need to spell this process out in the bylaws. And as we start drafting for the next meeting, we can start to create a pathway and timelines for exhaustion before it becomes alerted to either the full commission, the chair, the vice chair, and have that discussion. Part of it is I don't know how... That's the thing I think, at least I'm curious about, how you all view yourself and then your role with the chair and the vice chair, is how much do you want to be involved in those types of day-to-day questions? Knowing that I think it's the obligation of the chair then to communicate that out to each of you. Yeah, Commissioner Harris.

Rob Harris:

Thanks. Yeah, so the Guy Greco complaint I think the last commission meeting is a good example of this, where there was a dispute as to whether or not he could get more MAC funded. And he had a history that he recalled about that request, and the agency had a slightly different one. And I think that we said go back and let us know more or something. In the end, I think they worked it out without having to come in front of the commission again.

But as I'm listening to this, maybe it's sort of a two-track thing, I guess, but maybe if someone were to go through a process and they were not satisfied

with the outcome, and maybe like Commissioner Mandiberg says, it's a policy issue but it's related to implementation as well. It goes to the executive director, and she does a memo saying, "This is our position, and this is our response to your written position." And then maybe if they go through a process, it can go to the chair, and the chair can decide to either put it as an agenda item for further discussion because it rises to the level of a policy issue. Versus, "We're not going to make it its own agenda item but feel free to come and do your three-minute presentation at public comment."

So, maybe that's combining this. Make sure we continue to listen to them if they go through the process that raises to the level where the commission believes it needs to be addressed at our level if certain standards are met. I don't know the whole process, but sort of that's a 30,000-foot layout of maybe a process that we could work on.

Eric Deitrick: Yeah, Commissioner Wright.

Jasmine Wright: Sorry, I accidentally hit the raise hand button, so I'll mute out here.

Eric Deitrick: Okay. I think this is good direction for us on how to start drafting on this issue. Another issue I want to discuss today is attendance. In the past, we've had periods where we haven't had the best attendance. Statute requires that we have a quorum of voting members to conduct a meeting, and there's been times where that hasn't happened. Typically, bylaws have some statement in there about attendance obligations. This doesn't apply now but when we are in the executive branch, there is a statute ORS 182.010 that says for commissions or boards appointed by the governor, you're subject to removal if you fail to attend two consecutive meetings, subject to cause and whether there was a valid reason as interpreted by the governor's office. But I'm curious what thoughts you all have on attendance, the type of language that should be in there about attendance, commitment to attendance, and what to do if there's frequent missed meetings.

I guess the second piece to that, and this came up in the onboarding retreat, we had a discussion with DOJ about quorum and the fact that you can't have a meeting without a quorum. Commissioner Smith knows. I mean, I worked in the Legislature. They had hearings all the time where there wasn't a quorum there, and they just kept hearing testimony. I don't know for sure, but I think the reason for that is if you don't have a quorum, it's not a meeting. And so you're just being transparent about what's happening. But for optics reasons, I do worry about having meetings with three or four commissioners present and how the public views that and whether we

should clarify that a meeting actually should stop if a quorum is no longer present.

Jennifer Parrish Taylor: I feel like that should be the default, that we need to have quorum. Especially if we have to take votes. But I mean personally, I will speak that it's often depending on when these are scheduled, it's hard to make them. And I think as much as we can schedule in advance, the better.

Eric Deitrick: No, and that's part of why... I don't know, we have nine meetings scheduled for this year, and I think that's a much better cadence for getting you materials and also having the time commitment for you all. And if that's your thought, and I saw a head nod as well, I just remember working, yeah, and I don't think it looks good when there's a few people present and people taking time out of their day to present testimony, and there's only a few people there. So, that would be at least I think staff's preference is not only voting issues, but we're just going to stop the meeting if there's not a quorum present. Commissioner Harris?

Rob Harris: Yeah, in the olden days, just had quarterly meetings. So missing two would mean you're gone for six months, which is significant. But recently, we've even had special meetings, monthly meetings. I don't know about missing two in a row, maybe it should be three or something. Or maybe you're not in attendance for X amount of months or something like that. Because I can see being on vacation one month and being sick the other. Now, sure, you can excuse it, but then you have to go through a process.

On the other hand, as Commissioner Smith pointed out earlier, having firm numbers is actually a compelling reason to actually make an effort as well. So, I do think that if it's a meeting that's quickly called because of an emergency, I think that's a different story than a quarterly meeting. And I don't know what the right balance is. I don't know if it's two in a row or whether it's if you have not attended a meeting for three months or what the number is. I don't object to that, but let's take into account whether or not we're going to have special meetings called quickly because of an emergency because the unrepresented crisis versus quarterly meetings.

Eric Deitrick: And I also don't know if this statute's enforced. I've been meaning to reach out to the governor's office because I am curious about this. I mean, two meetings in a row happens quite frequently, so I appreciate that. Okay. Another issue I want to discuss with you all is the practice of making motions. When we drafted the bylaws about a year and a half ago, we deliberately did not use Robert's Rules of Order. And that's partially because with a commission with a lot of lawyers, you tend to start seeing motions to

table things and very novel type motions that along the way get hard to track what's going on.

And so the way that the current bylaws have been drafted is if there's a motion and it's been seconded, you discuss it, and then you vote on it. But if there's during the discussion, I think, some added consideration that maybe the commission should go a different direction instead of amending it or tabling it or getting wonky with process, just having the proponent of the motion or the seconder withdraw their motion and making a new motion. And that was keep the table clean so that everybody knew what they were voting on. And I'm just curious if any of you have concerns about that, if you'd like to see more nuance to the motion practice as commissioners. Commissioner Smith?

Addie Smith:

I work in a lot of communities that use Robert's Rules, and I would suggest that we not personally, both for all the reasons you've discussed, but also I think it's really important that our meetings remain approachable and understandable. And if we're getting lost in a lot of busy motion practice and sort of slick moves to turn things in different directions, I don't think that does the folks that we're trying to serve much justice personally. And so I think keeping it simple makes a lot of sense.

I will say we may want to consider memorializing our conversation around voting members versus non-voting members, when they can discuss something and when that item can't be discussed in the bylaws. Because I think that's going to become a hot topic, and the more we can have clarified that so we all know how to set our non-voting members up for success in terms of providing us the input we know they have that is valuable, that might go into the bucket here. But if I'm taking us on too far of a left turn, the short answer is please know Robert's Rules to the extent that I have a say [Laughter] or at least get to suggest anything.

Eric Deitrick:

Commissioner Wright?

Jasmine Wright:

Yeah, that's right out of my mouth, Commissioner Smith. Yeah, absolutely, I want a thousand percent clarification. It seems like from the very beginning it's been completely nebulous as to what I can do, what I can't do, what I can't talk about, what I can discuss. I'm fine with whatever that decision is, but I just want it black and white.

Eric Deitrick:

Yeah, so we have reached out to the Oregon Government Ethics Commission to get an opinion on what the non-voting members can say and do in their role on this commission, largely to protect you all and the commission and make sure everything's been vetted. In terms of making...

But I think that's more in terms of what you can discuss. In terms of motions, I have talked with the Department of Justice about this. I think they're of the same mindset that if you cannot vote on an issue, it seems incongruous that you could shape the vote by being the proponent of the motion. So, I do think we need to clarify these in the bylaws. But I know you and Brook Reinhart are going to need more clarity on when you can weigh in and when you cannot weigh in.

Jasmine Wright:

Yeah, like, I mean, one question that I have, Eric, though is we were just at our last meeting in terms of I made a motion to suggest who the chair was or to make a motion who the chair was. I mean, obviously, I don't have a conflict there, but there was an issue with me making that motion. So, I mean, I think there is a lack of clarity all around in terms of what voting and non-voting members can do. And so I think there needs to be very black-and-white rules about every part of this process.

Eric Deitrick:

Agreed, and we are awaiting that opinion, and we'll distribute it when we get it because you do need that clarity. And Commissioner Smith, to your point, I mean, that was part of the thinking about Robert's Rules is we wanted the commission to be collegial and set up a framework where they could work with each other. Instead of playing motion games, just being like, "Hey, maybe you could withdraw that, and we could make a new motion following that discussion." So, I have never worked with Robert's Rules in a formal setting, but I've just heard things and what you're saying confirms what I've heard.

The only other thing I really wanted to talk about today, and then I'll just kick it to you all to see if you have additional topics, and I know something that's come up in the past is communication. This comes up in several of the bylaws that we sent out. You probably all get emails from providers, maybe contacted by the press, maybe by your legislator, and this is something we talked about at the onboarding retreat as well. Should there be a framework in the bylaws on communication between commissioners and others and even agency staff about the business of the agency? I saw some of the bylaws delegates that communication authority to the chair of the commission or the chair of the board. One of the areas that can lead to confusion is if ongoing providers are speaking to multiple commission members and getting different answers in response, creating a sense that there's misalignment or non-alignment. Yeah, Commissioner Smith.

Addie Smith:

I mean, personally, I don't want to limit sort of constituents, for lack of a better word, or individuals who are being served by the system who are part of the system from being able to access us. I think it's our duty as commissioners to then sort of appropriately bring those issues forward and

communicate with each other to get on the same page. So that makes me a little uncomfortable. I want to be available. With regard to the press, I think having a press policy of how we respond or who takes that, so we have one spokesperson, seems very reasonable and makes sense to me. I think that's a little bit different than having coffee with someone who wants to talk to you about what's working and what's not working. So, I would just weigh in that sort of I see those two things as really different, and I see our role as different in both of those instances.

With regard to communication amongst ourselves, I think we all understand based on the DOJ conversation that what we're fighting against is some legislation that's getting interpreted really narrowly. So, maybe we need to put that into the bylaws, how we want to interpret and understand our ability to chat without violating the rules of public meetings or our interpretation. I hesitate to say put it in the bylaws because it feels like we may have to change that shortly thereafter. Because it sounds like folks are not happy with the way that's playing out. But I think we all feel a little frustrated that it's going to be hard for us to talk in twos or threes or even one-on-one, so having some kind of policy in the bylaws may be helpful just so that even if we're frustrated, we have a level set that we can all abide by and express our frustration with collectively. So, just some thoughts on those three things.

Eric Deitrick:

Yeah, Commissioner Mandiberg.

Susan Mandiberg:

I don't know if this needs to be in the bylaws. It seems like it's pretty specific. But I would like some guidance about how to provide materials to other people. For example, we seem to have agreed that whatever charter I've put together or I'm in the process of putting together, I'll get to other people. But I don't know how to do that. I mean, I gather from what we said on onboarding that I shouldn't just send it directly to people's personal emails because that opens up Pandora's box. And I think there should probably be a regular system for doing that, maybe sending things to you or to Mona, and then one of you can distribute them. But again, I don't know that it needs to be in the bylaws, but I do think it needs to be standardized and communicated.

Eric Deitrick:

Yeah, I think that would be the cleanest path, and actually probably use both of us just in case one of us is out of the office, would be to send it to Mona and myself, and we can distribute that to the rest of the members of the commission. That way you eliminate the concern that there's a back and forth offline. Yeah, to Commissioner Smith's point, it's just because you want a governing body to be able to discuss the issues with each other,

share ideas so that the commission can be vibrant and you're implementing the best policies.

And the interpretation that's out there on the public meeting law, I mean, clearly, it's in everyone's interest that business be conducted in the light of day, and I know that was the intent behind these provisions, but interpreting all communication as potentially serial communication constituting a public meeting? I don't think you need to interpret it that way. So, I appreciate this, and I'm happy to work on this issue more. I don't know if there's going to be any potential change on this coming up. I doubt it in the short session, and I don't know if anything's being queued up for the '25 session. But this is giving a lot of state boards and commissions problems right now. Those were the only issues I wanted specific feedback on. Are there other issues any of you'd like to bring up on the issues of bylaws? Yeah, Commissioner Smith.

Addie Smith: Sorry, I feel like I'm taking up a lot of airspace, but I think that one of the things that came up at our last meeting was a conversation around sort of the function of subcommittees, the number of subcommittees, standing subcommittees versus sort of permanent subcommittees, that type of thing.

Eric Deitrick: Yes. That was where we were going to go next. That is next on the agenda.

Addie Smith: Great.

Eric Deitrick: Thank you. Commissioner Mandiberg?

Susan Mandiberg: Yeah, there are some other things in the legislation that I would like to suggest need some clarification, possibly in the bylaws. But rather than raising them here, when I provide this chart I will try to highlight some of the terms that I think might be useful to clarify.

Eric Deitrick: Okay, thank you. Well, turning to subcommittees then, it's not something the agency has used in the past. In our current bylaws, we talk about subcommittees, we talk about workgroups, and we talk about it I believe it's advisory committees. And just to explain a little bit about the distinction and how it relates to public meeting law, if a subcommittee is a subgroup of a governing body, and this subcommittee is a subgroup of a governing body, authorized to make recommendations to the full governing body, then when you gather with a quorum, it's a public meeting. The executive director is not a governing body, and so Director Kampfe could convene workgroups or advisory groups to advise her in her role. And those would be able to meet offline and not subject to public meeting law.

But when it's a governing body, which you all are, those are the rules that apply. So, it's not something we've made great use of in the past. I think we've realized that having 20 to 25 meetings a year for you all to attend is not optimal. And so trying to find a way to get you all involved in the areas you want to be involved in, obviously we've created this subcommittee. One thing we are working on is a six-year plan. It was called a five-year plan but to adapt to the biennial budget patterns of the Legislature, it's going to be a six-year plan. Because one of the things I think we needed, and others felt like we've needed more commission involvement is the big-ticket items going forward on workload models and service delivery models. So, one of the ideas that we had after talking to the chair was a possible subcommittee on implementing a six-year plan. I'm curious if there are other ideas or thoughts any of you have had or conversations you've had about possible commission subcommittees. Yeah, Commissioner Mandiberg.

Susan Mandiberg: Does your six-year plan include data?

Eric Deitrick: It does.

Susan Mandiberg: It is so important, such an important point going forward that I'm wondering whether you think that it should be part of a bigger subcommittee's focus or whether it's important enough to have its own subcommittee. I don't have an opinion on that, but I think it's an issue that we should resolve.

Eric Deitrick: So, the six-year plan involves data, but it certainly wouldn't be a subcommittee if created, solely focused on data. And data is going to be the key for us going forward. We're not going to be able to implement our service delivery models if we don't have case management systems that give us access to good data. We're not going to be able to frankly, receive the investments from the Legislature unless we have good data. I don't think we're going to have buy-in from our providers in the change that's going to happen over the next four to six years if we can't ground it in data. So, I think that's something we should talk about considering, Commissioner Mandiberg. Commissioner Smith?

Addie Smith: In a shocking turn of events, I would like to see a subcommittee on juvenile practice. I think that there's a lot to be discussed there, and it's otherwise sometimes lumped in with adult practice, and so I think bringing some focus into it. And maybe a subcommittee is not the right place or venue, but I would love to be considering sort of how we continue to recognize the differences in needs, in practice, in oversight, in funding models, etc., that are happening in the juvenile world.

Eric Deitrick: No, I think that is something to think about, whether it is something that should be a subcommittee of the commission or whether it's the director creating an advisory group with practitioners in that area. Yeah, I don't know. I think part of what thinking through this is given the roles given to the agency and the new duties in 337, what are the big-ticket items this commission needs to exercise dominion over and have its bases covered? Okay. So, I'm hearing possibly data, possibly juvenile practice.

Jennifer Parrish Taylor: I'm also just wondering how do we create a space for agility in terms of on the face of it, it may not seem like it would have an impact to the agency, but actually it does. I think for example. the moves to reform Measure 110 and recrim. So, as they're talking about changing, moving from Class E to Class C or potentially Class A, those folks, I'm assuming majority, will need public defenders. So, how do we start to build in the conversations around what are we doing now to build up to that? Because the crunch is going to get more acute if we don't. And also how are we effectively communicating that to the Legislature as they make these decisions that just don't strictly affect drug use and behavioral health?

Eric Deitrick: Yeah, so I see Lisa Taylor's camera came on, and she can correct anything I say here. Part of what's interesting about our agency is our independence, and I think, although I'm not positive and this is what Lisa can correct me on, that there is language in 337 about us weighing in on legislation. The issue since I've been here is always, okay, you are independent agency. Who decides when you can weigh in? And in the past, we've been cautious and have certainly wanted the commission to approve any decision to weigh in on legislation rather than make that decision internally. Because it is fairly unusual for state agencies to weigh in on policy decisions, but again, we are kind of unique. So, I don't know. Lisa, do you have anything to add?

Lisa Taylor: I'll just say that, yeah, we are able. We have kind of a unique position where we can weigh in with... I believe we need a vote from the commission on when we would weigh in on things. In regards to the 110 related bill, we're working on a fiscal for that, and we're working closely with the CJC right now about how many cases we think this is going to actually produce, as well as with our data team and our providers around that. And I think that will be definitely a longer conversation, and I assume it'll come up during our next commission meeting. Now is not the time to talk about it probably, but I think there's a lot of larger policy with discussions to have around how we're going to weigh in on legislation. Because I do think that this commission could be and potentially wants to be more impactful on policy than it is right now.

Eric Deitrick: Yeah, Commissioner Smith.

Addie Smith: Yeah, I think Commissioner Parrish Taylor's point is so well taken with the direct example of what's happening right now. And also I think we've begun to have a lot of conversations about how one, I don't know, spoke on the wheel to solve the process is to think about how to have less prosecutions in general so there's less need for public defenders, or how to correct some of the discovery issues that take so much time, and, and, and. So, I want to reiterate that I think it's important. And then I want to say in response to Ms. Taylor, etc., that I'm hopeful that one of the things the commission can do is set some policy for the agency on what types of things we weigh in on. So, we may not weigh in on certain things... We may want to set a threshold. To the extent that this will increase the number of required public defenders in the state, it is something that we want to give the agency permission to weigh in on. Or things like that that set some bumpers.

Because, of course, there's a lot of things OPDS may want to weigh in on with relation to criminal and juvenile law. So, we may want to set some bumpers to make it easier. I want to think too and without setting any ultimatums, it's not always a tenable system to have to have you come to us for permission because you're going to need permission on a bill that just got posted for a work session tomorrow morning. So, I want us to have strong oversight in a way that's thoughtful and meaningful, but I don't want to hamstring the agency either when we know how sessions actually work. And that's when I think some thoughtful policy and some thoughtful bumpers where to the extent that anything's going to increase the need for public defenders, we will weigh in, we will provide not just the fiscal requested on that, but we will provide active testimony at the beginning to set the stage or whatever. I just want to float that those are absolutely things I think we should be thinking about.

Eric Deitrick: Yeah, Commissioner Harris.

Rob Harris: Good discussion, thanks for raising it, Commissioner Parrish Taylor, particularly with the 110, I think. I mean, we'd have ad hoc or standing committees, subcommittees. Maybe rather than an ad hoc committee for each thing that's coming down the pike, maybe we do need a standing committee for public policy changes or legislation or proposals. And that subcommittee could be made up of the staff, agency staff, which is going to be providing data and that sort of thing.

But some of these impacts, like 110, are going to require at some point the commission to vote and set a policy on how to address that. And it could result in freezing contract rates for two years, for instance, and the

Legislature needs to know that. And then people on the commission could say, "And in that case, we're going to lose 12% of our providers." And because this is a combination data policy issue, and if we get ahead of this at the time the policy is starting to be crafted by the district attorney's office and the sheriff's association and the people who want to run tough on crime platforms, if we say, "Yeah, but it's going to create this back..." And we're going to vote this way. The commission has indicated this is the only option we have unless you want to increase our budget by \$50 million. And I think that would be very helpful to the policymakers in Salem before they vote on it.

So, if we have a standing committee, and I don't know what you would call it, but it would have to be a combination of some commission members and heavily staffed by agency. Because you're going to say you have these three choices given our budget, and then you'll have input from us. And we can more quickly respond to this, and when they do, have gotten stuff or they drop a bill two hours ahead of session because the session is running down, maybe we would have something ready to go. So, maybe a standing committee that dealt with stuff like the 110 thing would make some sense. It'd almost act like the Criminal Justice Commission in a way, but it would be our viewpoint, and we could more fully inform the Legislature on the negative impact of what they're trying to do. Or the positive impact, I'll say that too.

Jennifer Parrish Taylor: And I would highly recommend that the members that are legislators be on that committee, whatever it is, whatever we're going to call it because we're going to need them to help us make that case to their colleagues.

Eric Deitrick: Yeah, I mean, this is so timely. So, I believe at the March meeting we should have the six-year plan presented to the full commission. The underpinning of it is that, look, the ABA recommended caseload and workload standards for attorneys in the state of Oregon, you don't have enough attorneys to have that kind of caseload right now. How do we get there over a period of six years? There's only two ways to get there. One is to add attorneys, the second is to take cases out. So, in the building of the six-year plan, it operates under the assumption that we are where we are right now and contemplates decriminalizing or changing sentencing schemes going forward. Flipping 110 back into a place where there's more crimes coming into the system is going to run counter to our efforts to achieve reasonable workload standards going forward. Yeah, Commissioner Harris.

Rob Harris: Yeah, this is probably just a little bit off topic, but on topic, I actually had an idea on 110, and I actually passed it on to OCDA the other day. But perhaps we should include a provision in there that says, "No individual criminally

charged with possession can be sentenced until the state has identified and made available an appropriate treatment program for them, and if they're unable to do that within six months, that charge will in fact be dismissed." Because we don't want to sentence people, have them rotate through probation violations and tie up the courts, have people on warrants tie up our jail system. So, if the real goal is to get people treatment, why are we sentencing them to a treatment that doesn't exist?

Jennifer Parrish Taylor: We're pushing for that.

Rob Harris: So, let's have an opt-out and have the case freaking dismissed if they can't provide a bed.

Jennifer Parrish Taylor: I will just let you know that on the community side of things, we are pushing for that because it doesn't make any sense to us.

Eric Deitrick: Okay. Well, these are all great ideas on ways we can utilize your time on different areas of the agency's business. On the next item on the agenda, I had it as a possible action item which is a formal vote to recommend subcommittees. I don't think, from staff's perspective, we're there yet. I think more work needs to be done between now and the next meeting. There's only two additional things I had for this meeting. One is electing a chair of this subcommittee, and the second piece is pinning down our meeting dates, particularly since you're all here right now. So, is there any discussion amongst you all about who would like to take up the task of managing and steering this work from the commission end?

Rob Harris: I wonder whether Commissioner Parrish Taylor would be have the bandwidth to do that. I know she's extremely busy, but she's the one that's been on the commission the longest here.

Jennifer Parrish Taylor: I was putting my finger on my nose to mean not it. So, no, I do not.

Rob Harris: I didn't see that one.

Jennifer Parrish Taylor: Between this and graduate school, I just, yeah, I just don't.

Rob Harris: I understand. Well, if Commissioner Mandiberg is going to do all the heavy lifting on separating 213 from 216, I don't know whether she would want to do it. If she does not, then I will volunteer to chair this subcommittee.

Susan Mandiberg: I'm not sure what the duties of a chair for this subcommittee would be. I'd like to hear [Laughter] what you think about that before...

[Crosstalk 01:25:17]

Eric Deitrick: Yeah, so what I'm envisioning is having one point person who, in the coming weeks, I can work with a draft of the bylaws on with in a back and forth. So, we have that ready to go for the next meeting. And then actually just running the meeting and working with me on what do you think the agenda topic should be. I really do view this committee as probably having two more meetings between now and March 21st. We already have one dialed in for February 29th and picking one between then and March 21st.

I don't know after bylaws are adopted whether this committee, subcommittee would need to meet any more than a couple times a year. I think that's something the chair would want to figure out and working with agency staff because once we get bylaws implemented, how comfortable do you feel that the agency has roles and responsibilities and working with the agency to figure out what additional work would be needed going forward. So, I see that as the short term, is getting the bylaws pinned down. And then longer term is being the point person to figure out ways to better define roles and responsibilities.

Susan Mandiberg: So, I am going to between now and March, the March meeting, I'm going to be out of the state twice. Once, I'll be in the same time zone but not in Oregon, and once I'll be in a different time zone. So, if we could do our work mostly through email...

Eric Deitrick: Oh, yeah.

Susan Mandiberg: I don't how that works with the public meetings and public records thing. But if we could do our work mostly through email with an occasional Zoom or phone conference, I could probably work with you on the bylaws.

Eric Deitrick: Okay.

Susan Mandiberg: As long as we can coordinate with me being not here.

Eric Deitrick: Absolutely, that would work just fine.

Susan Mandiberg: All right. In that limited, that relatively limited role, I'm happy to do that.

Eric Deitrick: Okay. Does anyone want to make a motion?

Addie Smith: I think Commissioner Wright wanted to weigh in on something, perhaps.

Jasmine Wright: I just wanted to confirm the next tentative meeting, Eric, is scheduled for February 29th, is that right?

Eric Deitrick: Correct.

Jasmine Wright: Okay. All right, that was my only question.

Eric Deitrick: And then we would need another meeting time. Does this time generally work, Thursday mornings? Because as I'm looking at the calendar between now and March 21st, if we held the meeting on the 29th, then we would have to have the third meeting on the 7th or the 14th. The 7th is only one week after the 29th. The 14th is one week before the commission retreat in March. And so I guess I'm wondering if even though we sent out the meeting for the 29th, if the 22nd would work. I see a head nod and a head no, okay. Then why don't we keep the meeting on the 29th and then find a time between the 29th and the 21st to have that third meeting?

Addie Smith: The 14th might be nice in that it is sort of the week before, and so it would give us a chance to tie up any loose ends at the last possible minute with the most lead time.

Eric Deitrick: I think that makes sense. It's just that means whatever edits we make are not going to get out as timely as normal, but this is the Governance Subcommittee, and so if we're all comfortable with it... Because I think that's what it'll be. I think there will be some last-minute work that we can get done but...

Susan Mandiberg: Is an earlier time that week possible for people? In other words, not a Thursday? So that we would have time to get something put together and out.

Eric Deitrick: Like the 11th or 12th?

Addie Smith: Like the 11th or 12th.

Addie Smith: I can't do that, but I should not be anyone to hold up a meeting. If everyone else is available, that definitely would make sense.

Jennifer Parrish Taylor: Yeah, I'm also not available at that time, but again...

[Crosstalk 01:30:28]

Susan Mandiberg: ...because you two are both needed. So, if we had the meeting on the 14th, we could probably get materials out to everyone by the 18th. That would give people two days or three days.

Eric Deitrick: Yeah.

Susan Mandiberg: Is that enough?

Eric Deitrick: I think as long as this group feels comfortable with the bylaws, I would expect the rest of the commission to take that because they've already kind of tasked this group with making those recommendations.

Susan Mandiberg: Interim, what would people think about sending a preliminary draft to the commission after the meeting on the 29th? Letting people submit responses to us so that we would have them to talk about on the 14th? And then what they got after the 14th would not be a total surprise. What do people think about that?

Eric Deitrick: I mean, from the staff's perspective, I think, Commissioner Mandiberg, that makes sense.

Addie Smith: I think also, Commissioner, if you become chair which seems to be forecasted, to the extent that you're able to provide a little bit of context and a presentation at the meeting, walking folks through big changes or areas where we had major discussion, that would make it easier for folks who may have received it later and didn't get as much time with it to feel comfortable. Having someone be a little bit of a guide can really help.

Susan Mandiberg: Yeah, that works.

Eric Deitrick: Okay, so we'll keep the meeting on the 29th, we'll schedule one for the 14th, and we will plan on getting materials out after the 29th meeting and soliciting feedback so we're ready for the 14th. Commissioner Harris?

Rob Harris: Are we ready for a motion to appoint our chair or is there further discussion on the agenda stuff? I didn't mean to jump in there too early.

Eric Deitrick: I think we're ready.

Rob Harris: I would move to appoint Commissioner Mandiberg the chair of this subcommittee.

Eric Deitrick: Is there a second?

Addie Smith: I'll, yeah.

Eric Deitrick: All those in favor? Okay. The record reflects it was unanimous vote. Thank you, Commissioner Mandiberg, for agreeing to take this on. This is really important work, and I think you all get why it's important. I could just tell from the first 30 minutes of the conversation a lot of concern about roles and responsibilities. Even though the statute attempted to clarify things, it's still not clear, and looking forward to working with you all on this. I don't have anything else other than to thank you all for spending your time on this topic this morning. And I'll be, Commissioner Mandiberg, reaching out to you so we can start working on this.

Susan Mandiberg: Sounds good. Bye, everybody.

Eric Deitrick: Thank you.